

***United States Court of Appeals
for the Second Circuit***



EXHIBITS

76-4232

United States Court of Appeals

For the Second Circuit

WILLIAM M. IVLER and BARBARA IVLER,
Plaintiffs-Appellants,

against

COMMISSIONER OF INTERNAL REVENUE,
Defendant-Appellee.

On Appeal from the United States Tax Court

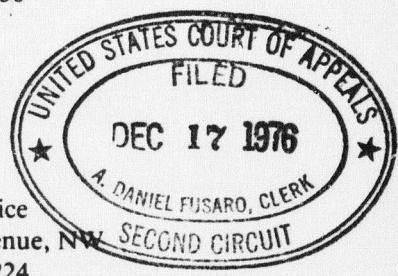
**EXHIBITS 1-A, 2-B, 3-C, 5-E, 6-F,
7-G, 8-H, 9-I, 10-(1), (2), (3) and 11**

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B
P/S

T A B L E O F C O N T E N T S

EXHIBIT 1-A

EXHIBIT 2-B

EXHIBIT 3-C

EXHIBIT 5-E

EXHIBIT 6-F

EXHIBIT 7-G

EXHIBIT 8-H

EXHIBIT 9-I

EXHIBIT 10(1),(2) and (3)

EXHIBIT 11

EXHIBIT 1-A

1966

Form 1040

U.S. Individual Income Tax Return

for the year January 1-December 31, 1966, or other taxable year beginning
1966, ending 19 U.S. Treasury Department—Internal Revenue Service

Please print or type		First name and initial (if joint return, use first names and middle initials of both)	Last name	Your social security number (Husband's, if joint return)
		WILLIAM M & BARBARA M	IVLER	07211616145
Home address (Number and street or rural route)		3 NASH COURT		
City, town or post office, and State		STONYFORD CONN		
ZIP code				
▲ Enter the name and address used on your return for 1965 (if the same as above, write "Same"). If none filed, give reason. If changing from separate to joint or joint to separate returns, enter 1965 names and addresses.		Same		
Your present employer and address		GEYMAN CONSTRUCTION CORP MAMARONECK NY		
Wife's present employer and address, if joint return				
Filing Status—check only one:				
1a <input type="checkbox"/> Single				
1b <input checked="" type="checkbox"/> Married filing joint return (even if only one had income)				
1c <input type="checkbox"/> Married filing separately. If your husband or wife is also filing a return give his or her first name and social security number.				
1d <input type="checkbox"/> Unmarried Head of Household				
1e <input type="checkbox"/> Surviving widow(er) with dependent child				
Income 5 Wages, salaries, tips, etc. If not shown on attached Forms W-2 attach explanation				
If joint return, include all income of both husband and wife 6 Other income (from page 2, Part II, line 8)				
7 Total (add lines 5 and 6)				
8 Adjustments (from page 2, Part III, line 5)				
9 Total income (subtract line 8 from line 7)				
Figure tax by using either 10 Tax Table—if you do not itemize deductions and line 9 is less than \$5,000, find your tax from tables in instructions. Do not use lines 11a, b, c, or d. Enter tax on line 12.				
11 Tax Rate Schedule—				
11a If you itemize deductions, enter total from page 2, Part IV. If you do not itemize deductions, and line 9 is \$5,000 or more enter the larger of:				
(1) 10 percent of line 9 or; (2) \$200 (\$100 if married and filing separate return) plus \$100 for each exemption claimed on line 4, above.				
Deduction under (1) or (2) limited to \$1,000 (\$500 if married and filing separately).				
11b Subtract line 11a from line 9				
11c Multiply total number of exemptions on line 4, above, by \$600				
11d Subtract line 11c from line 11b. Enter balance on this line. (Figure your tax on this amount by using tax rate schedule on page 11 of instructions.) Enter tax on line 12.				
12 Tax (from either Tax Table, see line 10, or Tax Rate Schedule, see line 11) <i>47.274.87</i>				
13 Total credits (from page 2, Part V, line 5)				
14a Income tax (subtract line 13 from line 12)				
14b Tax from recomputing prior year investment credit (attach statement)				
15 Self-employment tax (Schedule C-3 or F-1)				
16 Total tax (add lines 14a, 14b, and 15) <i>1965 TAX LIABILITY 436.46</i>				
17 Total Federal income tax withheld (attach Forms W-2) <i>30.175.80</i>				
18 1966 Estimated tax payments (include 1965 overpayment allowed as a credit) <i>400</i>				
19 Excess F.I.C.A. Tax Withheld (two or more employers—see page 5 of inst.)				
20 Nonhighway Federal gasoline tax—Form 4136, Reg. Inv.—Form 2439				
21 Total (add lines 17, 18, 19, and 20) <i>30.525.80</i>				
22 If payments (line 21) are less than tax (line 16), enter Balance Due. Pay in full with this return				
23 If payments (line 21) are larger than tax (line 16), enter Overpayment				
24 Amount of line 23 you wish credited to 1967 Estimated Tax				
25 Subtract line 24 from 23. Apply to: <input type="checkbox"/> U.S. Savings Bonds, with excess refunded or <input type="checkbox"/> Refund only				
Tax Due or Refund <i>48.001.46</i>				
Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. If prepared by a person other than taxpayer, his declaration is based on all information of which he has any knowledge.				
Sign here <i>4/11/67</i>				
If joint return, BOTH HUSBAND AND WIFE MUST SIGN even if only one had income.				
Sign here <i>4/12/67</i>				
Signature of preparer other than taxpayer.				
Address <i>110-24-0001 C-1/1617601N 30 F 4051 NYC 10016</i>				
Date <i>4/11/67</i>				
Date <i>4/12/67</i>				
AO-16-70261-2				

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PART I. Exemptions Complete only for dependents claimed on line 3b, page 1

Form 1040-1956-Page 2

(a) NAME (if more space is needed attach schedule)	(b) Relationship	(c) Months lived in your home, if born or died during year write "B" or "D"	(d) Did dependent have income of \$600 or more?	(e) Amount YOU furnished for dependent's support, if 100% write "ALL"	(f) Amount furnished by OTHERS including dependent
1				\$	\$
2					
3 Total number of dependents listed above. Enter here and on page 1, line 3b					►►

PART II. Income from sources other than wages, etc.

1a Dividends and other distributions on stock (Name of payer—write (H), (W), (J), for stock held by husband, wife, or jointly) -----

1b Exclusion (see instructions) 200 -

1c Capital gain distributions. -----

1d Nontaxable distributions. -----

1e Total lines 1b, 1c, and 1d. 700 -

1f Taxable dividends (line 1a less line 1e—not less than zero) 384 65

2 Interest (name of payer) -----

2a Earnings from savings and loan assoc., mutual savings banks, credit unions, etc. -----

Total line 2a -----

2b Interest on bank deposits (other than mutual savings) -----

Total line 2b -----

2c Other interest (bonds, etc.) -----

Total line 2c -----

2d Total interest income (lines 2a, 2b, & 2c) ►► 2762 76

3 Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc. (Sch. B) (4220 98)

4 Business income (Schedule C) 15372 97

5 Sale or exchange of property (Schedule D) 15372 97

6 Farm income (Schedule F) 611 73

7 Miscellaneous income (state nature) NYS Refund

Total line 7 ►► 611 73

8 TOTAL (add lines 1f through 7. Enter here and on page 1, line 6) 15372 763

PART III. Adjustments

1 "Sick pay" if included in line 5, page 1 (attach Form 2440 or other required statement) -----

2 Moving expenses (attach Form 3903) -----

3 Employee business expense (attach Form 2106 or other statement) 431 79

4 Payments by self-employed persons to retirement plans, etc. (attach Form 12950SF) -----

5 TOTAL ADJUSTMENTS (lines 1 through 4. Enter here and on page 1, line 8) 431 79

EXPENSE ACCOUNT INFORMATION—If you had an expense allowance or charged expenses to your employer, check here and see page 7 of instructions.**PART IV. Itemized deductions—Use only if you do not use tax table or standard deduction.**

Medical and dental expense (not compensated by insurance or otherwise)—Attach itemized list. If 65 or over see instructions.

1 Total cost of medicine and drugs	
2 Enter 1% of line 9, page 1	
3 Subtract line 2 from line 1	
4 Other medical, dental expenses (include hospital insurance premiums)	
5 Total (add lines 3 and 4)	
6 Enter 3% of line 9, page 1	
7 Subtract line 6 from line 5; see page 8 of instructions for maximum limitation ►►	

Contributions—Cash—including checks, money orders, etc. (itemize)

Schedules Attached

1 Total cash contributions	
2 Other than cash (see instructions for required statement). Enter total of such items here.	
3 Carryover from prior years (see page 8 of inst.)	
4 Total contributions (add lines 1, 2, and 3—see instructions for limitation) . . ►►	8003 50

Taxes—Real estate	704 07
State and local gasoline	62 -
General sales (see page 15 of instructions)	197 -
State and local income	
Personal property	10235
Total taxes ►►	101342

Interest expense—Home Mortgage 774 90

Other (itemize) Savings New Co 400 34

N.Y. Securities Corp

Interest on sever assessment

Interest on investment 112 64

Total interest expense ►► 112596

Miscellaneous deductions—(see page 9 of instructions)

Safes Deposit Boxes

Total Miscellaneous ►►	24 -
TOTAL DEDUCTIONS (for page 1, line 11a) ►►	102741 99

PART V. Credits

1 Retirement income credit (Schedule B)

2 Investment credit (Form 3468)

3 Foreign tax credit (Form 1116)

4 Tax-free covenant bonds credit

5 TOTAL CREDITS (add lines 1 through 4. Enter here and on page 1, line 13)	153 25
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Schedule D (Form 1040) 1966

Part III—PROPERTY OTHER THAN CAPITAL ASSETS

a. Kind of property and how acquired (if necessary, attach statement of descriptive details not shown below)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Depreciation allowed (or allowable) since acquisition	f. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	g. Gain or loss (d plus e less f)
1 Enter gain from Part II, line 3						
2 Enter your share of non-capital gain (or loss) from partnerships and fiduciaries						
3 Net gain (or loss) from lines 1 and 2. Enter here and in Part IV, line 3.						

Part IV—TOTAL GAINS OR LOSSES FROM SALE OR EXCHANGE OF PROPERTY

1 Net gain (or loss) from Part I, line 12 or 13	153 722 97
2 Total ordinary gain from Part II, line 2	
3 Net gain (or loss) from Part III, line 3	
4 Total net gain (or loss), combine lines 1, 2, and 3. Enter here and on page 2, Part II, line 5, Form 1040.	153 722 97

COMPUTATION OF ALTERNATIVE TAX—It will usually be to your advantage to use the alternative tax if the net long-term capital gain exceeds the net short-term capital loss, or if there is a net long-term capital gain only, and you are filing (a) a separate return with taxable income exceeding \$26,000, or (b) a joint return, or as a surviving husband or wife, with taxable income exceeding \$52,000, or (c) as a head of household with taxable income exceeding \$38,000.

1 Enter the amount from page 1, line 11d, Form 1040	167 279 96
2 Enter amount from Part I, line 11, on reverse side	150 330 56
3 Subtract line 2 from line 1	16 949 40
4 Enter tax on amount on line 3 (use applicable tax rate schedule on page 11 of Form 1040 instructions)	3525 73
5 Enter 50% of line 2	75 165 28
6 Alternative tax (add lines 4 and 5). If smaller than the tax figured on the amount on page 1, line 11d, Form 1040, enter this alternative tax on page 1, line 12, Form 1040 and write "Alternative" to left of entry	786 91 11

INSTRUCTIONS (References are to the Internal Revenue Code)

GAINS AND LOSSES FROM SALES OR EXCHANGES OF PROPERTY.—Report details in appropriate part or parts.

In column (a) of Parts I, II, and III use the following symbols to indicate how the property was acquired: "A" for purchase on the open market; "B" for exercise of stock option or through employee stock purchase plan; "C" for inheritance or gift; "D" for exchange involving carryover of prior asset basis; and "E" for other.

Capital assets defined.—The term "capital assets" means property held by the taxpayer (whether or not connected with his trade or business) but does NOT include—

- (a) stock in trade or other property of a kind properly includable in his inventory if on hand at the close of the taxable year;
- (b) property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business;
- (c) property used in the trade or business of a character which is subject to the allowance for depreciation provided in section 167;
- (d) real property used in the trade or business of the taxpayer;
- (e) certain government obligations issued on or after March 1, 1941, at a discount, payable without interest and maturing at a fixed date not exceeding 1 year from date of issue;
- (f) certain copyrights, literary, musical, or artistic compositions, etc.; or
- (g) accounts and notes receivable acquired in the ordinary course of trade or business for services rendered or from the sale of property referred to in (a) or (b) above.

Special rules apply to dealers in securities for determining capital gain or ordinary loss on the sale or exchange of securities. Certain real property subdivided for sale may be treated as capital assets. Sections 1236 and 1237.

If the total distributions to which an employee is entitled under an employees' pension, bonus, or profit-sharing trust plan, which is exempt from tax under section 301(a), are paid to the employee in one taxable year, on account of the employee's separation from service, the aggregate amount of such distribution, to the extent it exceeds the amounts contributed by the employee, shall be treated as a long-term capital gain. (See section 402(a).)

Gains on sale of depreciable property between husband and wife or between a shareholder and a "controlled corporation" shall be treated as ordinary gain.

Gains and losses from transactions described in section 1231 (see below) shall be treated as gains and losses from the sale or exchange of capital assets held for more than 6 months if the total of these

gains exceeds the total of these losses. If the total of these gains does not exceed the total of these losses, such gains and losses shall not be treated as gains and losses from the sale or exchange of capital assets. Thus, in the event of a net gain, all these transactions should be entered in Part I of Schedule D. In the event of a net loss, all these transactions should be entered in Part III of Schedule D, or in other applicable schedules on Form 1040.

Section 1231 deals with gains and losses arising from—

- (a) sale, exchange, or involuntary conversion, of land (including in certain cases unharvested crops sold with the land) and depreciable property if they are used in the trade or business and held for more than 6 months.
- (b) sale, exchange, or involuntary conversion of livestock held for draft, breeding, or dairy purposes (but not including poultry) and held for 1 year or more.
- (c) the cutting of timber or the disposal of timber, coal, or domestic iron ore, to which section 631 applies, and
- (d) the involuntary conversion of capital assets held more than 6 months.

See sections 1231 and 631 for specific conditions applicable.

Gain from disposition of depreciable property under sections 1245 and 1250—assets held more than 6 months (Part II).—Report any gain from such property held for 6 months or less in Part III.) Except as provided below section 1245 property means depreciable (a) personal property (other than livestock) including intangible personal property; and (b) tangible real property (except for buildings and their structural components) if used as an integral part of manufacturing, production, or extraction, or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services, or used as a research or storage facility in connection with these activities.

Except as provided below section 1250 property means depreciable property (other than section 1245 property).

See sections 1245(b) and 1250(d) for exceptions and limitations involving: (a) disposition by gift; (b) transfers at death; (c) certain tax-free transactions; (d) like kind exchanges, involuntary conversions; (e) sales or exchanges to effectuate FCC policies and exchanges to comply with S.E.C. orders; (f) property distributed by a partnership to a partner; and (g) disposition of principal residence (section 1250 only).

(Instructions continued on reverse side of duplicate)

William M + Barbara Silver
Income Tax
1966

EX. I-A; Page 6

		1	2	3	4	5	6
	<u>Security Transactions</u>						
	Long Term Capital Gain			acquired	sold	Cost	Proceeds
1	21 SCM Corp			10/7/65	5/16/66	89128	155337
2	200 Seven Arts			11/7/65	3/19/66	371613	371566
3						460741	526903
4						66162	
5						526903	526903
6	<u>Short Term Capital Gain</u>						
7	100 Atlas Corp			1/3/66	1/7/66	309 -	31447
8	500 Seven Arts			1/11/66	4/27/66	1168789	1395150
9	100 Natco			8/19/66	12/21/66	183763	296094
10							
11						1383452	1722693
12						339241	
13						1722693	1722693
14							
15	<u>Dividend Income</u>						
16	Springarn, Herman - Per 1037's						
17	Haas Securities Corp					160 -	
18	American Tel & Tel					5690	
19	Borden Corp					10780	
20						80 -	
21	CBS Inc					4845	
22	W.T. Grant					8250	
23	Lincoln National Bank					20 -	
24	Mortgage Guaranty Insur Corp					20 -	
25	F.W. Woolworth Co					9 -	5846
26							
27	<u>Interest Income</u>						
28	Central Savings Bank					36687	
29	Citizen Savings Bank					32213	
30	Depot Savings Bank					39370	
31	East River Savings Bank					39279	
32	Emigrant Industrial Bank					29965	
33	Franklin Savings Bank					39370	
34	Lincoln National Bank					13073	
35	Manhattan Savings Bank					39408	
36	Stamford Savings Bank					7611	77697
37							
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William M. Luler
Income Tax
1966

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Barbara M. Euler
Income Tax
1966

1 2 3 4 5 6

Income from Rents

Rents Received

665364

Expenses and Deductions

Mortgage Interest

195041 ✓

Real Estate Taxes

83814 ✓

Insurance

24215 ✓

Painting, Repairs & Maintenance

336134 ✓

Misc Expense

39991 ✓

Janitorial Supplies - Expenses

15999 ✓

Management Expenses

6549 ✓

Advertising

17644 ✓

Fuel

35369 ✓

Linen Service

12708 ✓

Electricity

30011 ✓

Water

5207 ✓

Depreciation

284780 ✓

Total Expenses

108746 ✓

NET LOSS

(422092)

?

DEPRECIATION

Bldg - Frame (over 4 years old)

Assumed

Cost

Method

Life

Dep'n

4/13/66

41169 -

DB

25 yrs

124676

- (- - -)

71,166

DB

25 yrs

67665

Improvements (Avg)

71,166

DB

10 yrs

7694

Furniture & Furnishings

71,166

DB

4 yrs

44745

284780

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William M. + Barbara M. Luler
Income Tax
1966

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Schedule to Schedule D -

In July, 1963 I entered into an oral agreement with George Ungar and Evelyn H. Ungar (the "Ungars") who were then the sole stockholders of Gevyn Construction Corp (and my clients) ("Gevyn") whereby I agreed to leave my practice as an attorney and to join them as a principal in Gevyn. At that time we arrived at an agreement as to the then "worth" of Gevyn which the Ungars resolved to themselves, and we agreed that from that time I was to be the owner of $\frac{1}{3}$ rd of Gevyn less the above reserve and subject to ~~it~~ either the Ungars right to buy my interest or my right to require them to purchase same. If this right by either side was to be exercised in the first two years then I was to receive either the actual value of half of my stock interest (or $\frac{1}{6}$ of Gevyn's worth after taxes on the agreed reserve) but no less than an amount to reflect my giving up my law practice.

After two years and up to five years, I was to receive either the actual value of my stock interest over the aforesaid reserve (i.e. $\frac{1}{3}$ rd) but again no less than an amount to reflect my giving up my law practice! After the five years, the Ungars could not force me to sell. During this period, I was to receive a salary of $\$30,000$ / annum gross to be a normal expense of Gevyn.

Unfortunately, though I attempted to have our agreement reduced to writing for over two years, I never succeeded in doing so. Finally in the latter part of 1965 when still no stock was issued, I demanded that I either be bought out pursuant to our agreement or my stock be issued with the Ungars assuming all tax consequences as if it had been issued as agreed in July, 1963. After many discussions and negotiations and with a view to the fact that at that time Gevyn had uncompleted construction

contracts to be performed with which I was involved, the Ungars agreed to buy me out and that the price was to reflect the net profits and prospective net profits on the existing jobs if I agreed to remain to their contemplated completion and work on them. Many conversations took place as to how to give ~~me~~ my interest in such a way as to be consistent with the prior tax returns and formal records of George filed and kept by the Ungars — none of which reflected my stock interest and our 1963 agreement. Finally, after fruitless meetings and conferences, and drafts and redrafts, and my realization that I would never be able to force ~~the~~ the Ungars to their agreement to buy my interest back (other than litigation and a long drawn out battle) unless such purchase was referred to as "compensation" I agreed with them to a written agreement (my first!!) to receive

\$160,000 on February 14, 1966 as "a bonus" and \$100,000 "salary" per annum from November 30, 1965 to December 1, 1967. These sums were arrived at based upon my interest from the time I was to receive my stock in July, 1963. To the time I was to leave Gevyn less my agreed to salary of \$30,000 per year from July, 1963 through to December 1, 1967.

Therefore, Gevyn paid me in 1966 as per the attached W-2 \$106,829 and \$160,000 as per a 1099 as a "bonus". Also they are paying me \$8333/month in 1967 through to December 1, 1967. Based upon my agreement with the Hungars in 1963, these payments over the \$30,000 gross per year are for my stock interest (which we argued in 1965-1966 was $\frac{1}{3}$ - $\frac{1}{4}$ - $\frac{1}{5}$ or $\frac{1}{6}$!!) and the payments are allocable as follows:

(next page)

(5)

EX. 1-A; Page 14

<u>Received in</u>	<u>To Salary</u>	<u>To Purchase (Cap. Gain)</u>	<u>Total</u>
1965	\$1500	—	\$1500
1966 (fr 1965)	1,000	5,833.33	6,833.33
1966	30,000	230,000. —	260,000. —
1967 (11 months)	27,500	64,166.67	91,666.67
<u>Total</u>	<u>60,000</u>	<u>300,000. —</u>	<u>360,000. —</u>

327-0000-

EXHIBIT 2-B

Form 1040

U.S. Individual U.S. Treasury Department, Internal Revenue Service
Income Tax Return for the year January 1-December 31, 1967.

1967

or other taxable year beginning _____, 1967, ending _____, 19_____

Please print or type

Please use this form.
Correct name, etc., if necessary.
Enter social security number(s) at right only if incorrect or not shown on label.

072-16-6145 150-24-5538 D006
WILLIAM M & BARBARA M IVLER
3 NASH CT
STAMFORD CONN 06900 ••

Your social security number

Your occupation

CONTRACTOR

Spouse's social security number

Spouse's occupation

HOUSEWIFE

Enter below name and address used on your return for 1966 (if same as above, write "Same"). If none filled, give reason. If changing from separate to joint or joint to separate returns, enter 1966 names and addresses.

Same

Your present employer and address

Spouse's present employer and address, if joint return

Your Filing Status—check only one:

1a Single
 1b Married filing joint return (even if only one had income)
 1c Married filing separately. If spouse is also filing a return, enter her (his) social security number in space provided above and give first name here
 1d Unmarried Head of Household
 1e Surviving widow(er) with dependent child

Your Exemptions Regular 65 or over Blind

2a Yourself . . . Enter number of boxes checked

2b Spouse . . . Enter number of boxes checked

3a First names of your dependent children who lived with you Robert John Enter number of boxes checked

3b Number of other dependents (from page 2, Part I, line 3)

4 Total exemptions claimed Enter number of boxes checked

Income
If joint return include
all income of both
husband and wife

5 Wages, salaries, tips, etc. If not shown on attached Forms W-2 attach explanation	5	27500
6 Other Income (from page 2, Part II, line 8)	6	857663
7 Total (add lines 5 and 6)	7	3607663
8 Adjustments to income (from page 2, Part III, line 5)	8	568743
9 Total income (subtract line 8 from line 7)	9	3038940

Find tax from table
—OR—

10 If you do not itemize deductions and line 9 is less than \$5,000, find your tax from tables in Instructions. Do not use lines 11a, b, c, or d. Enter tax on line 12.	10		
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Figure tax using tax rate schedules

11a If you itemize deductions, enter total from page 2, Part IV, line 17 If you do not itemize deductions, and line 9 is \$5,000 or more enter the larger of: (1) 10 percent of line 9; OR (2) \$200 (\$100 if married and filing separate return) plus \$100 for each exemption claimed on line 4, above. Deduction under (1) or (2) limited to \$1,000 (\$500 if married and filing separately).	11a	718244	Enter number of boxes checked
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11b Subtract line 11a from line 9	11b	7370676	Enter number of boxes checked
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11c Multiply total number of exemptions on line 4, above, by \$600	11c	2400	Enter number of boxes checked
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11d Subtract line 11c from line 11b. Enter balance on this line. (Figure your tax on this amount by using tax rate schedule on page 11 of instructions.) Enter tax on line 12.	11d	7080671	Enter number of boxes checked
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Your
Tax,
Credits,
and
Pay-
ments

12 Tax (from either Tax Table, see line 10, or Tax Rate Schedule, see lines 11a-11d)	12	463816	Enter number of boxes checked
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13 Total credits (from page 2, Part V, line 4)	13	5733	Enter number of boxes checked
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14a Income tax (subtract line 13 from line 12)	14a	458583	Enter number of boxes checked
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14b Tax from recomputing prior year investment credit (attach statement)	14b		Enter number of boxes checked
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15 Self-employment tax (Schedule C-3 or F-1)	15		Enter number of boxes checked
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16 Total tax (add lines 14a, 14b, and 15)	16	458583	Enter number of boxes checked
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17 Total Federal income tax withheld (attach Forms W-2)	17	7535940	Enter number of boxes checked
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18 Excess F.I.C.A. tax withheld (two or more employers—see page 5 of instr.)	18		Enter number of boxes checked
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19 <input type="checkbox"/> Nonhighway Federal gasoline tax—Form 4136, <input type="checkbox"/> Reg. Inv.—Form 2439	19		Enter number of boxes checked
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20 1967 Estimated tax payments (Include 1966 overpayment allowed as a credit)	20		Enter number of boxes checked
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21 Total (add lines 17, 18, 19, and 20)	21	7535940	Enter number of boxes checked
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Balance
Due or
Refund

22 If payments (line 21) are less than tax (line 16), enter Balance Due. Pay in full with this return	22		Enter number of boxes checked
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23 If payments (line 21) are larger than tax (line 16), enter Overpayment	23	7077357	Enter number of boxes checked
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24 Amount of line 23 you wish credited to 1968 Estimated Tax	24		Enter number of boxes checked
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25 Subtract line 24 from 23. Apply to: <input type="checkbox"/> U.S. Savings Bonds, with excess refunded or <input checked="" type="checkbox"/> Refund only	25	7077357	Enter number of boxes checked
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Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. If prepared by a person other than taxpayer, his declaration is based on all information of which he has any knowledge.

Sign here

Your signature _____ Date _____

Signature of preparer other than taxpayer _____ Date _____

Address _____

(N.B. If you are filing jointly, both must sign even if only one had income)

Form 1040 Exemptions Complete only for dependents claimed on line 3b, page 1

Form 1040-1967-Page 2

(a) NAME (If more space is needed attach schedule)	(b) Relationship	(c) Months lived in your home, if born or died during year write "B" or "D"	(d) Did dependent have income of \$600 or more?	(e) Amount YOU furnished for dependent's support, if 100% write "ALL"	(f) Amount furnished by OTHERS including dependent
1				\$	\$
2					
3 Total number of dependents listed above. Enter here and on page 1, line 3b					

Part II Income from sources other than wages, etc.

1a Gross dividends and other distributions on stock (list payers and amounts—write (H), (W), (J), for stock held by husband, wife, or jointly)

Total line 1a	700	►	906 18
1b Exclusion (see instructions)	700	►	
1c Capital gain distributions (see page 6 of instructions)		►	
1d Nontaxable distributions (see page 6 of instructions)		►	
1e Total (add lines 1b, 1c, and 1d)	700	►	
1f Taxable dividends (line 1a less line 1e—not less than zero)		►	706 08

Interest (list payers and amounts below)

Earnings from savings and loan assoc. and credit unions.

Other interest (banks, bonds, tax refunds, etc.)

2 Total interest income	4305 94	►
3 Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc. (attach Sch. B)	(3469 99)	►
4 Business income or loss (attach Schedule C)		
5 Sale or exchange of property (attach Schedule D)	7034 60	
6 Farm income or loss (attach Schedule F)		

Miscellaneous income (state nature and source)

7 Total miscellaneous income		►
8 TOTAL (add lines 1f, 2, 3, 4, 5, 6, and 7). Enter here and on page 1, line 6	8576 63	►

Part III Adjustments to income

1 "Sick pay" if included in line 5, page 1 (attach Form 2440 or other required statement)

2 Moving expenses (attach Form 3903)

3 Employee business expense (attach Form 2106 or other statement) SCHED A+B+C

4 Payments by self-employed persons to retirement plans, etc. (attach Form 2950SE)

5 TOTAL ADJUSTMENTS (lines 1 through 4). Enter here and on page 1, line 8

Part IV Itemized deductions—Use only if you do not use tax table or standard deduction.
Medical and dental expense (not compensated by insurance or otherwise)—Attach itemized list.

1 One-half (but not more than \$150) of insurance premiums for medical care	70 15
2 Total cost of medicine and drugs	—
3 Enter 1% of line 9, page 1	—
4 Subtract line 3 from line 2 (not less than zero)	—
5 Other medical, dental expenses (include balance of insurance premiums for medical care not deductible on line 1)	20 98 15
6 Total (add lines 4 and 5)	20 98 15
7 Enter 3% of line 9, page 1	91 48
8 Subtract line 7 from line 6 (not less than zero)	11 86 47
9 Total (add lines 1 and 8)	11 86 47

Contributions—Cash—including checks, money orders, etc. (itemize)

Schedule Attached

10 Total cash contributions

11 Other than cash (see instructions for required statement). Enter total of such items here

12 Carryover from prior years (see page 8 of instr.)

13 Total contributions (add lines 10, 11, and 12—see instructions for limitation)

Taxes—Real estate	7279 1
State and local gasoline	90 —
General sales (see page 15 of instructions)	147 —
State and local income	136 45
Personal property	171 42
14 Total taxes	1277 78

Interest expense—Home Mortgage

Other (itemize) Lincoln Nat'l Bank

City of New York on Assessment

Springarn & Name

139 61

112 44

15 Total interest expense

134 1 91

Miscellaneous deductions—(see page 9 of instructions)

Safe Deposit Box

Income Tax Service

575 —

16 Total miscellaneous

17 TOTAL DEDUCTIONS (add lines 9, 13, 14, 15, and 16). Enter here and on page 1, line 11a.

7182 44

Part VI Credits

1 Retirement income credit (Schedule B)

57 33

2 Investment credit (Form 3468)

3 Foreign tax credit (Form 1116)

4 TOTAL CREDITS (for page 1, line 13)

EXPENSE ACCOUNTS—If you had an expense allowance or charged expenses to your employer, check here and see page 7 of instructions.

SCHEDULE D
(Form 1040)U.S. Treasury Department
Internal Revenue ServiceGains and Losses From Sales or Exchanges
of Property

Attach this schedule to your income tax return, Form 1040

1967

Name and address as shown on page 1 of Form 1040

WILLIAM M. & BARBARA M. IVLER 3 NASH COURT STAMFORD CONN

Part I—CAPITAL ASSETS—Short-term capital gains and losses—assets held not more than 6 months

a. Kind of property. Indicate security, real estate, or other (Specify)	b. Description (Examples: 100 sh. of "2" Co., 2 story brick, etc.)	c. How acquired. Enter letter symbol (See instr.)	d. Date acquired (mo., day, yr.)	e. Date sold (mo., day, yr.)	f. Gross sales price	g. Depreciation allowed (or allowable) since acquisition	h. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	i. Gain or loss (f plus g less h)
1								

Schedule Attached

2 Enter your share of net short-term gain (or loss) from partnerships and fiduciaries	
3 Enter unused short-term capital loss carryover from preceding taxable years (attach statement)	
4 Net short-term gain (or loss) from lines 1, 2, and 3	531849

Long-term capital gains and losses—assets held more than 6 months (12 months or more for certain livestock)

5 Enter gain from Part II, line 3	
	Schedule Attached

Total long-term gross sales price 1077

6 Enter the full amount of your share of net long-term gain (or loss) from partnerships and fiduciaries	
7 Enter unused long-term capital loss carryover from preceding taxable years (attach statement)	
8 Capital gain dividends (see Form 1040 Instructions, page 6)	343740
9 Net long-term gain (or loss) from lines 5, 6, 7, and 8	875080
10 Combine the amounts shown on lines 4 and 9, and enter the net gain (or loss) here	
11 If line 10 shows a GAIN—Enter 50% of line 9 or 50% of line 10, whichever is smaller. (Enter zero if there is a loss or no entry on line 9.) (See reverse side for computation of alternative tax.)	1716
12 Subtract line 11 from line 10. Enter here and in Part IV, line 1, on reverse side	703450
13 If line 10 shows a LOSS—Enter here and in Part IV, line 1, the smallest of the following: (a) the amount on line 10; (b) the amount on page 1, line 11b, Form 1040, computed without regard to capital gains and losses; or (c) \$1,000	

Part II—GAIN FROM DISPOSITION OF DEPRECIABLE PROPERTY UNDER SECTIONS 1245 AND 1250—
assets held more than 6 months (see instructions for definitions)

Where double headings appear, use the first heading for section 1245 and the second heading for section 1250.

a. Kind of property and how acquired (if necessary, attach statement of descriptive details not shown below—write 1245 or 1250 to indicate type of asset)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale
1				

f. Depreciation allowed (or allowable) since acquisition		g. Adjusted basis (e less sum of f-1 and f-2)	d. Total gain (d less g)	i. Ordinary gain (lesser of f-2 or h) OR (see instructions)	j. Net gain (h less i)
f-1. Prior to January 1, 1962	f-2. After December 31, 1961				
OR	OR				
Prior to January 1, 1964	After December 31, 1963				

2 Total ordinary gain. Enter here and in Part IV, line 2, on reverse side

3 Total other gain. Enter here and in Part I, line 5; however, if the gains do not exceed the losses when this amount is combined with other gains and losses from section 1231 property enter the total of column j in Part III, line 1 . . .

Schedule D (Form 1040) 1967

Part III—PROPERTY OTHER THAN CAPITAL ASSETS

a. Kind of property and how acquired (If necessary, attach statement of descriptive details not shown below)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Depreciation allowed (or allowable) since acquisition	f. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	g. Gain or loss (d plus e less f)
1 Enter gain from Part II, line 3						
2 Enter your share of partnership and fiduciary gain (or loss) from property other than capital assets						
3 Not gain (or loss) from lines 1 and 2. Enter here and in Part IV, line 3						

Part IV—TOTAL GAINS OR LOSSES FROM SALE OR EXCHANGE OF PROPERTY

1 Net gain (or loss) from Part I, line 12 or 13	7034 60
2 Total ordinary gain from Part II, line 2	
3 Net gain (or loss) from Part III, line 3	
4 Total net gain (or loss), combine lines 1, 2, and 3. Enter here and on page 2, Part II, line 5, Form 1040.	7034 60

COMPUTATION OF ALTERNATIVE TAX—It will usually be to your advantage to use the alternative tax if the net long-term capital gain exceeds the net short-term capital loss, or if there is a net long-term capital gain only, and you are filing (a) a separate return with taxable income exceeding \$26,000, or (b) a joint return, or as a surviving husband or wife, with taxable income exceeding \$52,000, or (c) as a head of household with taxable income exceeding \$38,000.

1 Enter the amount from page 1, line 11d, Form 1040	
2 Enter amount from Part I, line 2, on reverse side	
3 Subtract line 2 from line 1	
4 Enter tax on amount on line 3 (use applicable tax rate schedule on page 11 of Form 1040 instructions)	
5 Enter 50% of line 2	
6 Alternative tax (add lines 4 and 5). If smaller than the tax figured on the amount on page 1, line 11d, Form 1040, enter this alternative tax on page 1, line 12, Form 1040 and write "Alternative" to left of entry.	

INSTRUCTIONS (Continued from reverse side of original)

Column 1 of Part II, section 1250 property only.—If held for more than 6 months, but not more than 1 year, enter the smaller of (1) column h, or (2) column f-2.

If held for more than 1 year, enter the result of multiplying the smaller of (1) column h, or

(2) column f-2 less the amount of depreciation computed for the same period using the straight line method, by the percentage obtained by subtracting from 100%, one percentage point for each full month held in excess of 20 months.

Where substantial improvements have been made within the preceding 10 years, see section 1250(f).

Basis.—In determining gain or loss use cost, except as specially provided. The basis of property acquired by gift after December 31, 1920, is the cost or other basis to the donor in the event of gain, but, in the event of loss, it is the lower of either such donor's basis or the fair market value on date of gift. If a gift tax was paid with respect to property received by gift, see section 1015(d). Generally, the basis of property acquired by inheritance is the fair market value at the date of death. For special cases involving property acquired from a decedent, see section 1014.

Installment sales.—If you sold personal property for more than \$1,000 or real property regardless of amount, you may be eligible to report any gain under the installment plan if (1) there is no payment in the year of sale, or (2) the payments in the year of sale do not exceed 30 percent of the selling price. The election must be made in the year of sale even though no payment was received in that year. See section 453.

For treatment of a portion of payments as "unstated interest" on deferred payment sales, see section 483.

Sale of personal residence.—Tax on a portion or all of the gain from the sale of your principal residence may be deferred if:

(a) within 1 year after (or before) the sale, you purchase another residence and use it as your principal residence; or

(b) within 1 year after (or before) the sale, you begin construction of a new residence and use it as your principal residence not later than 18 months after the sale.

If you sold property for \$20,000 or less on or after your 65th birthday which was owned and used by you as your principal residence for at least 5 of the last 8 years any gain on the sale need not be included in income. If the property was sold for more than \$20,000 part of the gain must be taken into income.

Document No. 5017, *Selling Your Home*, is available free at any Internal Revenue Service office.

Nonbusiness debts.—If a debt, such as a personal loan, becomes totally worthless within the taxable year, the loss resulting therefrom shall be considered a loss from the sale or exchange, during the taxable year, of a capital asset held for not more than 6 months. Enter such loss in column (i) and describe in column (b), Part I. This does not apply to: (a) a debt evidenced by a corporate security with interest coupons or in registered form and (b) a debt acquired in your trade or business.

Limitation on allowable capital losses.—If line 10, Part I, shows a net loss, the loss shall be allowed as a deduction, only to the extent of the smaller of (1) line 11b (or line 9 if tax table is used), page 1, Form 1040 computed without capital gains (losses), or (2) \$1,000. The excess of such allowable loss over the lesser of items (1) and (2) above is called "capital loss carryover." Any such carryover loss may be carried forward indefinitely. Capital losses retain their character as either short-term or long-term when carried over to the succeeding year. To the extent the net capital losses are deducted from ordinary income, the net short-term capital loss must be considered as deducted first.

Losses in transactions between certain persons.—No deduction is allowable for losses from sales or exchanges of property directly or indirectly between (a) members of a family, (b) a corporation and an individual (or a fiduciary) owning more than 50 percent of the corporation's stock (liquidations excepted), (c) a grantor and fiduciary of any trust, (d) a fiduciary and a beneficiary of the same trust, (e) a fiduciary and a fiduciary or beneficiary of another trust created by the same grantor, or (f) an individual and a tax-exempt organization controlled by the individual or his family. Partners and partnerships see section 707(b).

Long-term capital gains from regulated investment companies.—Include in income as a long-term capital gain the amount you are notified on Form 2439 which constitutes your share of the undistributed capital gains of a regulated investment company. You are entitled to a credit of 25 percent of this amount which should be included with the amount claimed on line 19, page 1, Form 1040. The remaining 75 percent should be added to the basis of your stock.

Losses on small business stock.—If you had a loss on section 1244 stock which would (but for that section) be treated as a loss from the sale or exchange of a capital asset, it shall be treated as a loss from the sale or exchange of an asset which is not a capital asset to the extent provided in that section.

Schedule to Schedule D -

Attached to my 1966 Form 1040, was a written statement explaining the difference between the W-2 form attached hereto and the income reported therein. I am at this time attaching a copy of said statement to this statement and marking the attachment as "Exhibit A".

This year the W-2 form attached hereto (indicating an "income" from Gevyn Const. Corp. of \$ 91,663.00) again differ from the income reported on this return and is explained by the allocation set forth on the last page of said Exhibit A filed last year.

The 1966 return is in the process of being examined by an IRS field agent and no determination has been communicated to me as of this date as to such examination.

(1)

Schedule to Schedule D -

In July, 1963 I entered into an oral agreement with George Ungar and Evelyn H. Ungar (the "Ungars") who were then the sole stockholders of Gevyn Construction Corp. (and my clients) ("Gevyn") whereby I agreed to leave my practice as an attorney and to join them as a principal in Gevyn. At that time we arrived at an agreement as to the then "worth" of Gevyn which the Ungars reserved to themselves, and we agreed that from that time I was to be the owner of $\frac{1}{3}$ and of Gevyn less the above reserve and subject to ~~to~~ either the Ungars right to buy my interest or my right to require them to purchase same. If this right by either side was to be exercised in the first two years then I was to receive either the actual value of half of my stock interest (or $\frac{1}{6}$ of Gevyn's worth after fines on the agreed reserve) but no less than an amount to reflect my giving up my law practice.

(2)

After two years and up to five years, I was to receive either the actual value of my stock interest over the above and reserve (i.e. $\frac{1}{3}$ rd) but again, no less than an amount to reflect my giving up my law practice! After the five years, the Ungars could not force me to sell. During this period, I was to receive a salary of \$30,000 / annum gross to be a normal expense of Gevyn. Unfortunately, though I attempted to have our agreement reduced to writing for over two years, I never succeeded in doing so. Finally in the latter part of 1965 when still no stock was issued, I demanded that I either be bought out pursuant to our agreement or my stock be issued with the Ungars assuming all tax consequences as if it had been issued as agreed in July, 1963. After many discussions and negotiations and with a view to the fact that at that time Gevyn had uncompleted construction

(5)

contracts to be performed with which I was involved, the Ungars agreed to buy me out and that the price was to reflect the net profits and prospective net profits on the existing jobs if I agreed to remain to their contemplated completion and work on them. Many conversations took place as to how to give ~~me~~ my interest in such a way as to be consistent with the prior tax returns and formal records of George filed and kept by the Ungars — none of which reflect my stock interest in our 1963 agreement. Finally, after fruitless meetings and conferences, and drafts and re-drafts, and my realization that I would never be able to force the Ungars to their agreement to buy my interest back (other than little gain and a long drawn out battle) unless such purchase was referred to as "compensation" I agreed with them to a written agreement (my first!!) to receive

(4)

\$160,000 on February 14, 1966 as "a bonus" and \$100,000 "salary" per annum from November 30, 1965 to December 1, 1967. These sums were arrived at based upon my interest from the time I was to receive my stock in July, 1963 to the time I was to leave Gevaux less my agreed to salary of \$30,000 per year from July, 1963 through to December 1, 1967. Therefore, Gevaux paid me in 1966 as per the attached W-2 \$106,829 and \$160,000 as per a 1099 as a "bonus". Also they are paying me \$8333/month in 1967 through to December 1, 1967. Based upon my agreement with the Hungars in 1963, these payments over the \$30,000 gross per year are for my stock interest (which we agreed in 1965-1966 was $\frac{1}{3} - \frac{1}{4} - \frac{1}{5}$ or $\frac{1}{6}$!!) and the payments are allocable as follows:

(next page)

(5)

Received in	2% Salary	2% Purchases (Cap. Gain)	Total
1965	\$1500	—	\$1500
1966 (fn 1965)	1,000	5,833.33	6,833.33
1966	30,000	230,000. —	260,000. —
1967 (11 months)	27,500	64,166.67	91,666.67
Totals	60,000	300,000. —	360,000. —

EXHIBIT A - page 5

Computation of Investment Credit

EX. 2-B; Page 1

TO BE ATTACHED TO YOUR TAX RETURN
For calendar year 1967 or other taxable year beginning

1967, ending 19

1967

Name and address

William N. & Barbara M. Weller 3 Nash Court Stamford Conn

1 Investment in new and used property including investment in suspension period property

NOTE: Include your share of investment in property by a partnership, estate, trust, small business corporation, or lessor.

Type of property	Line	(1) Life years	(2) Cost or basis	(3) Applicable percentage	(4) Investment (Column 2 x column 3)
NEW PROPERTY	(a)	4 or more but less than 6		33 1/3	
	(b)	6 or more but less than 8		66 2/3	
	(c)	8 or more	747.50	100	747.50
USED PROPERTY (See instructions for dollar limitation)	(d)	4 or more but less than 6		33 1/3	
	(e)	6 or more but less than 8		66 2/3	
	(f)	8 or more		100	

2 Total investment—Add lines 1(a) through (f).

747.50

3 (a) Amount of investment on line 2 which is attributable to suspension period property

(b) Amount of exemption from suspension period property (cost of suspension period property in column 2, line 1, which is selected to be treated as qualified property—not to exceed \$20,000 less any amount selected in prior year)

(c) Enter in column 2 below the amount of investment on line 3(b) according to life years:

(1) Life years	(2) Cost or basis	(3) Applicable percentage	(4) (Column 2 x column 3)
4 or more but less than 6		33 1/3	
6 or more but less than 8		66 2/3	
8 or more		100	

(d) Total of column 4

4 Line 3(a) less line 3(d)

747.50

5 Total qualified investment—Line 2 less line 4

523.50

6 Tentative investment credit—7% of line 5 (3% for public utility property)

523.50

7 Carryback and carryover of unused credit(s) (attach computation)

523.50

8 TOTAL—Add lines 6 and 7

523.50

LIMITATION

9 (a) Individuals—Enter amount from line 12, page 1, Form 1040

4638 1/2

(b) Estates and trusts—Enter amount from line 25 or 26, page 1, Form 1041

(c) Corporations—Enter amount from line 7, Tax Computation Schedule, Form 1120

10 Individuals, estates and trusts: (a) Foreign tax credit

(b) Retirement income credit

11 Total—Add lines 10(a) and (b)

4638 1/2

12 Line 9 less line 11

(Married persons filing separately, affiliated groups, estates and trusts, see instruction 13)

4638 1/2

13 (a) Enter amount on line 12 or \$25,000, whichever is lesser

4638 1/2

(b) If line 12 exceeds \$25,000, multiply the excess by the applicable percentage determined in accordance with instruction 13.

14 Total—Add lines 13(a) and (b)

4638 1/2

15 Less 7% of line 4 (3% for public utility property)

4638 1/2

16 Line 14 less line 15

4638 1/2

17 Investment credit—Enter amount on line 8 or line 16, whichever is lesser

523.50

SCHEDULE A

If any part of your investment in 1 above was made by a partnership, estate, trust, small business corporation, or lessor complete the following:

Name (Partnership, estate, trust, etc.)	Address	Property		
		New	Used	Life years
		\$.....	\$.....
			
			

Income Tax
1967

		1	2	3	4	5	6
1	Dividends						
2	Per 1087 Spengen + Name					466 -	
3						42 -	
4						20 -	
5						5280	
6						90 -	
7						5460	
8						1588	
9						2750	
10						60 -	
11						50 -	
12						1250	
13						10 -	90678
14							
15	Interest						
16	Central Savings Bank					52810	
17	Citizens Savings Bank					44571	
18	Dry Dock Savings Bank					52922	
19	East River Savings Bank					52942	
20	Emigrant Savings Bank					33099	
21	Franklin Savings Bank					52947	
22	Lincoln National Bank					28839	
23	Manhattan Savings Bank					52950	
24	Stamford Savings Bank					40796	
25	Union Square Savings Bank					6389	
26	Total Savings Accounts					418265	
27	Security National Bank - Cert of Deposit					12329	
28						430594	
29							
30							
31							
32							
33							
34							
35							
36							
37							
38							
39							

1 2 3 4 5 6

			Date	Required	Sale	Cost	Proceeds
1	60	Xtra Corp		1-1-66	3/18/67	336365	3785779
2	100	Robertshaw Controls		3/15/67	4/18/67	313450	318480
3	100	Canadian Jewelers		4/18/67	8/8/67	95388	97973
4	311	Equity Funding		3/15/67	9/7/67	93294	122120
5	300	Southern Gulf Corp		5/3/67	8/9/67	110676	523939
6	100	Standard Alliance		7/1/67	8/9/67	4843	39559
7	100	Jugua Co		3/1/67	8/9/67	385545	642439
8	100	Sears Co		3/21/67	8/23/67	493094	562467
9	1000	Chemway Corp		5/29/67	8/23/67	840250	982940
10	700	Equity Funding		5/3/67	8/28/67	604288	78869
11	100	Alcan Alum		7/21/67	7/3/67	332294	311018
12	50	Allied Chemical		3/1/67	7/3/67	203131	200957
13	3000	ABC Industries		1/31/67	5/16/67	1020	75250
14	100	Del Tex Corp		3/24/67	8/23/67	2833	301068
15	100	Columbia Broadcasting		3/15-7/3/67	8/31/67	676831	623708
16						5997136	6328976
17						531840	
18						6328976	6328976

Net Short Term Gain

Capital Gain or Loss - Long Term

1	54	International Industries	7/1/66	7/4/67	76250	72135
2	73	Equity Funding	7/14/67	9/7/67	126876	784946
3	100	Mortgage Guarantees Inc	4/10/66	7/1/67	307169	349573
4	100	Natomas	3/28/66	3/1/67	135788	142472
5	5M	NYC 2.80/90	7/18/66	4/17/67	368610	360122
6	5M	NYC 2.70/95	7/1/66	4/17/67	359350	340663
7	5M	NYC 2.80/93	7/15/66	4/17/67	3684	351372
8	10M	NYC 2.80/95	7/18/66	4/17/67	73720	692711
9	10M	NYC 2.70/94	7/18/66	4/17/67	7187	686425
10	10M	NYC 2.75/95	7/15/66	4/17/67	7368	706327
11	49M	NYC 2.75/92	7/18/66	4/17/67	3612240	3477333
12	1000	Hebrew Nat'l Kosher Food	5/3/66	5/2/67	8352	596857
13	100	Amex Tel + Tel	3/3/66	7/11/67	603249	552530
14	100	Mortgage Guarantees Inc	4/10/66	8/23/67	307169	466484
15	100	W. + Grant	4/20/65	3/1/67	253578	261269
16	500	Hebrew Nat'l Kosher Food	4/27/66	7/5/67	224440	298428
17	100	Mortgage Guarantees Inc	11/23/66	8/23/67	183763	180165
18	65	Equity Funding	7/21/67	8/24/67	159917	248555
19	100	Bardeu Corp	4/20/66	8/31/67	318475	408037
20					10433194	10776434

Net Long Term Gain

343250

	1	2	3	4	5	6
1	Rental Income					
2	Rents Received					1544641
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26	Depreciation					
27	Frame Building (over 40 yrs old)	1966	41169-	164676	395224	PB
28		1966	2255490	67665	2187825	4 yrs
29		10/9/67	2864954	-	2864954	4 yrs
30		1/16/67	2039152	-	2039152	10 yrs
31	Improvements	1966	76947	7694	69253	10 yrs
32	Furnishings	Aug 7/1/67	276676	-	276676	4 yrs
33		1966	268474	14745	233929	4 yrs
34	Equipment	7/15/67	111933	-	111933	4 yrs
35		10/1/67	74750	-	74750	10 yrs
36						
37						
38						
39						

WILLIAM M. IVLER AND BARBARA M. IVLER
INCOME TAX

1967

EX. 2-B; Page 18

1 2 3 4 5 6

Medical Expense

1	Hospitalization	50% of \$140.30			70.15	
2	Dr. Edward L. Alpert				66.5	
3	Dr. Arnold J. Bentzon				60.0	
4	Dr. Robert S. Fields				39.0	
5	Stamford Medical Group				19.5	
6	Dr. Robert S. Siffert				7.5	
7	Dr. David I. Gold				4.3	
8	Dr. Milton Newfield				3.2	
9	Dr. Robert L. Madison				1.5	
10	Dr. S. J. Danoff				1.3	1098.15
11						
12						
13	<u>Contributions</u>					
14	Barbara and William Ivler Foundation - Cash				125.0	
15	35 shares Equity Funding - Market Value				1098.13	
16	Expenses resulting from volunteer work with the					
17	Psychiatric Clinic for Children				80	
18	King School				70	
19	S.A.M.E.-Boston Post Scholarship				5.0	
20	Stamford Hospital				40	
21	Israel Emergency Fund				12	
22	Various Other Funds, Dues & Appeals				125	1098.13
23						
24	<u>Business Expenses</u>					
25	Ordinary and necessary expenses incurred by me in					
26	performing my duties. My salary is fixed to cover these					
27	outlays					
28	Office Rent				275	
29	Telephone				1611.81	
30	Selling Expense				125.60	
31	Office and Miss. Expense				81.70	
32	Accounting				100	
33	Personal Property Tax				183.04	
34	Gas + Del.				54.27	
35	Repairs, Maintenance				29.21	
36	Tires				111.30	
37	Auto Insurance				166.83	1112.93
38	Depreciation-Auto (Cost 1,935 - Depn to 1,672.97) - Bal 439.50 - D.B. 4.00s				219.75	
39						
40						
41	Total Expenses					1112.93

1112.93

EXHIBIT 3-C

AGREEMENT dated as of the 30th day of November, 1965, by and between GEVYN CONSTRUCTION CORP., a New York corporation with its principal offices at 1205 Mamaroneck Avenue, White Plains, New York 10605 (hereinafter referred to as "Gevyn"), and William M. Ivler, residing at 3 Nash Court, Stamford, Connecticut, (hereinafter referred to as the "Employee").

W I T N E S S E T H:

WHEREAS, the Employee is presently employed by Gevyn and has been so employed since July 1, 1963, and the parties are desirous of setting the terms of such employment and the continuation thereof to the extent hereinafter provided,

NOW, THEREFORE, in consideration of the premises and covenants herein contained, the parties hereto agree as follows:

1. Gevyn does hereby employ the Employee and the Employee hereby accepts employment by Gevyn as Vice President of Gevyn to continue the duties that the Employee has heretofore been carrying out on behalf of Gevyn and to perform such other executive duties and services, consistent with his prior duties as may, from time to time, be assigned or delegated to him by Gevyn, provided that the Employee shall not be required to change his place of residence.

TAXPAYER Gevyn Construction
YEAR 1966-67
AGENT Ivler
DATE 7-14-67

2. The Employee agrees, during the term of this Agreement, to devote his entire time, attention and energies, during normal business hours, to the business of Gevyn, and to perform his duties with diligence,

fidility and reasonable care, provided, however, that the Employee shall not be in any way restricted from making investments in conjunction with Gevyn or its shareholders, or investing in publicly held companies or from making investments which do not require the devotion of the Employee's time, attention and/or energies pursuant to the terms of this Agreement.

3. As consideration for the services rendered to Gevyn prior to the date hereof, for which the Employee was never fully recompensed, Gevyn agrees to pay to the Employee, in cash as a bonus prior to February 15, 1966, a sum of money equal to \$160,000.00 (One Hundred and Sixty Thousand Dollars), less normal deductions.

From and after December 1, 1965, Gevyn shall pay the Employee as compensation hereunder the sum of \$100,000.00 (One Hundred Thousand Dollars) per annum, payable in monthly installments, on the first day of each and every month of the term hereof.

TAXPAYER Levin Connell Gevyn
YEAR 1966-67
AGENT McMahon

4. The initial term of this Agreement shall be for a period expiring December 1, 1967, and thereafter the Agreement shall be automatically renewed for a term of one year, unless notice of termination is given by either party to the other at least ninety (90) days prior to the end of the then current term.

5. Gevyn shall reimburse the Employee for all expenses actually incurred by him which are ordinary and necessary to the business of Gevyn, including but not limited to travel and entertainment expenses, except as hereinafter set forth in (a) and (b) hereof, within seven (7) days after the Employee shall have submitted a statement in respect thereto to Gevyn. The Employee shall be required to furnish at his own expense (a) a car for his use in connection with his duties as set forth herein and (b) an office in Connecticut to be used by the Employee to perform his duties as set forth herein.

6. If the Employee is unable to perform his duties hereunder by reason of illness or incapacity for a continuous period of ninety (90)

days, the compensation payable to the Employee hereunder shall thereupon cease; provided, however, that the Employee at any time thereafter shall be entitled to resume his duties hereunder for the remainder of the term hereof at full compensation.

7. The Employee shall be entitled during each year of the term of this Agreement to a paid vacation of three (3) weeks, on a cumulative basis. If, upon the termination of this Agreement, the Employee has not taken all the vacation to which he is then entitled hereunder, the Employee shall be paid in cash at his regular rate of compensation for all accrued but unused vacation.

8. During the term of this Agreement, the Employee shall attempt to find and/or develop potential investments for Gevyn and the Employee. In the event Gevyn determines to invest in any of such potential investment proposals, such investments shall be acquired by separate legal entities for each such investment and the Employee shall be offered the option of investing his own capital in such investment up to one-third of the capital requirements thereof and shall receive a profit interest in such investment in direct proportion to the Employee's investment therein. In the event Gevyn determines it does not wish to invest in such potential investments, the Employee may turn such potential investment over to third parties without being in violation of his obligations hereunder. If Gevyn and the Employee determine to invest in a potential investment pursuant hereto, any outside third party financing with respect thereto shall be for the benefit of Gevyn and the Employee in proportion to their capital interests in such investment and such outside third party financing shall be based upon Gevyn's and the Employee's respective abilities to obtain such credit. *Gevyn and/or*

YEAR *1965*
AGENT *Mark J. C. C.*
DATE *July 10, 1965*
PAGE # *60*

George Ungar and/or Evelyne H. Ungar shall have the right, at its or their option, to furnish such outside third party financing on the same terms and conditions as those offered by third parties. Neither Gevyn nor the Employee shall have the right during the term of this Agreement to sell, assign, transfer or otherwise encumber their interest in such investments except as hereinafter specifically set forth in Paragraph "9" hereof.

9. In the event of the termination of this Agreement for any reason whatsoever including, but not limited to, the death of the Employee, the Employee, or his executor, administrator or legal representative, as the case may be, shall have the option, for a period of thirty (30) days after such termination or sixty (60) days after the qualification of the Employee's executor, administrator or legal representative, if later, by notice to Gevyn, of selling all the Employee's interests in the aforesaid investments or selling all the Employee's interests in such investments except that the Employee may instead of selling all of such interests, elect in the aforesaid notice to sell all of such interests except those which he or his representatives shall elect to purchase from Gevyn, the total purchase price of the purchases being made by the Employee of Gevyn's interests, however, shall be limited to one-third (1/3) of the total value of said interests, as determined hereunder, of all such investments originated by the Employee pursuant to his duties hereunder. In no event, however, shall either party be entitled to purchase less than all of the other party's interest in any one investment. If the aforesaid options are not exercised within the said thirty (30) or sixty (60) day period, as the case may be, Gevyn shall have the option, for a period of thirty (30) days thereafter by notice to the Employee, or his ~~executor or administrator~~ TAXPAYER *Gerry Ungar*

AGENT *John* 7-11-69
DATE
PAGE # 61

or legal representative, as the case may be, of purchasing all the Employee's interest in the aforesaid investments.

The purchase price for all such purchases or sales shall be equal to the book value of such investments. If both parties cannot agree

- 4A -

TAXPAYER George C. Miller
YEAR 1966-67
AGENT McGinn
DATE 7-14-69
PAGE # 62

as to the book value of any one or all of such investments within five (5) days after such original notice, then each party shall immediately appoint one person, and such two appointees shall select a third individual within a subsequent period of five (5) days. Within thirty (30) days after the appointment of such three individuals, they shall submit a written statement as to the book values of those investments in dispute by a majority of said three individuals, and such values, and the book values of those undisputed, shall be binding and conclusive upon the parties hereto. The cost of the services of said three individuals shall be borne equally by Gevyn and the Employee. Within five (5) days after agreement between the parties hereto or a determination by a majority of the three appointed individuals, Gevyn and/or the Employee or the Employee's executor, administrator or legal representative shall purchase the others interest in the investments, as specified in the original notice, for a price equal to the book value or the determined value thereof payable in cash.

If neither party exercises its option under this Paragraph "9" hereof to purchase the other's interest in said investments, then thereafter neither party may sell, assign, transfer, pledge or otherwise encumber its interest in any such investment without first offering in writing his or its share in such investments to the other for purchase at either the book value or at a bona fide purchase price in writing being offered to the offering party by a third party, whichever is higher. If within thirty (30) days after such offer is made from one party to the other, said offer to purchase is not exercised, the offering party may sell, assign, transfer, pledge or otherwise encumber his or its interest without further restriction. If, however, such offer is accepted within

TAXPAYER Gevyn and Klein
 YEAR 1966 6-7
 AGENT Attala
 DATE 7-10-66
 PAGE # 63

such thirty (30) day period, then the accepting party shall purchase all of said offered share in cash within thirty (30) days after such acceptance.

10. This Agreement will be governed by and construed in accordance with the laws of the State of New York.

11. This agreement supersedes all prior agreements between the parties hereto and contains the entire agreement of the parties and may not be altered, modified or amended except in writing executed by both parties.

12. The rights and obligations of Gevyn under this Agreement shall inure to the benefit of, and shall be binding upon, the successors and assigns of Gevyn.

13. Any notice or request to be given hereunder to any of the parties by the other will be in writing and delivered personally or sent by certified mail, postage prepaid, to the addresses set forth in the heading of this Agreement or at such other address as either party hereto may designate in writing to the other.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

GEVYN CONSTRUCTION CORP.

By: William M. Ivler
President

W. M. Ivler
William M. Ivler

TAXPAYER Gevyn Constr. Corp.
YEAR 1966-67
AGENT Mr. Collier
DATE 7-11-69
PAGE # 60

GUARANTY

FOR VALUE RECEIVED and in consideration for and as an inducement to William M. Ivler making the within Agreement with Gevyn Construction Corp., the undersigned guaranteee to William M. Ivler his heirs, executors and assigns the full performance and observance of all the covenants, conditions and agreements as therein provided without requiring any notice of non-performance or non-observance or proof, or notice or demand whereby to charge the undersigned therefor, all of which the undersigned hereby expressly waive and expressly agree that the validity of this Agreement and the obligations of the Guarantors hereunder shall no wise be terminated, affected or impaired by reason of the assertion by William M. Ivler against Gevyn Construction Corp. of any of the rights or remedies reserved to William M. Ivler pursuant to the provisions of the within Agreement.

The undersigned further covenant and agree that their obligation hereunder is joint and several and shall in no way be impaired or affected by any extension of time, notification, omission, addition or change in or to the work to be performed under the Agreement or to the said Agreement or by any payments thereunder before the time required therein or by any waiver of any provisions thereof or by any assignment of any monies due or to become due thereunder.

Dated: As of November 30, 1965

George Ungar
George Ungar
Evelyne H. Ungar
Evelyne H. Ungar

TAXPAYER George Construction Corp.
YEAR 1965-67
AGENT McGinnis
DATE 7-10-69
PAGE # 61

EXHIBIT 5-E

MEMORANDUM

EXHIBIT 5-E

DATE June 28, 1965

TO: John P. Allison
FROM: Martin Barr
SUBJECT: Gevyn Construction Corp.

The principal problem at this time appears to be the manner in which Bill Ivler is to obtain his one-third interest in Gevyn. (The references to Gevyn herein should be understood as including the other corporations as well.) The two other areas we have dealt with, namely, the repurchase of the stock of each of the shareholders and the computation of taxable income, do not seem particularly difficult and can be taken up after the first problem is solved.

My greatest difficulty with Ivler's purchase is satisfying myself as to the real understanding of the parties with respect to the original agreement. We have been given the following explanations:

1. Ivler's purchase price for the first one-sixth of the stock is to be an amount equivalent to one-sixth of Gevyn's earnings (per books) for the two year period ending June 30, 1965, less the amount of his drawings (salary and other charges to his account on Evelyn's books). He is to purchase the second one-sixth on June 30, 1968, at the same price he paid for the first one-sixth (per Gluckman).
2. The second one-sixth is to be purchased at a price computed on the same basis as the first one-sixth, namely, undrawn book earnings for the three year period ending June 30, 1968, (per Evelyn).
3. Ivler is entitled to one-sixth of the income for five years and then he will get his stock for nothing (per Evelyn).
4. Ivler will be entitled only to drawings of \$30,000 per year for five years. The remaining portion of his one-sixth share of earnings for five years will be given

to him by the Ungars as a gift and he will then purchase his one-third share of the stock from them (per Evelyn).

I interpret all of the above to mean that, at least in Evelyn's mind, the agreement is that Ivler will work for five years for \$30,000 per year (plus expenses) and, at the end of that time, will own one-third of the stock. However, he will be required to pay income tax on the purchase price which will be equal to one-sixth of the five-year profits less his drawings for the period. The effect of this may be illustrated by the following example:

12 Months Ended	Tax Profit (After Salaries)	Book Profit (Before Salaries)
1) June 30, 1964	\$ 20,000	\$ 200,000
2) June 30, 1965	40,000	460,000
3) June 30, 1966	200,000	500,000
4) June 30, 1967	100,000	500,000
5) June 30, 1968	<u>100,000</u>	<u>500,000</u>
	<u>\$460,000</u>	<u>\$2,160,000</u>

Ivler's purchase price for the first one-sixth of the stock would be \$50,000 computed as follows:

Book Profits Years 1 & 2	\$ <u>660,000</u>
One-Sixth	\$110,000
Less Salary	<u>60,000</u>
Purchase Price	\$ <u>50,000</u>

His purchase price for the second one-sixth would be \$160,000:

Book Profits Years 3 - 5	\$1,500,000
One-Sixth	250,000
Less Salary	<u>90,000</u>
Purchase Price	\$ <u>160,000</u>

Assuming that Subchapter S applies throughout the period, Ivler would be taxed on one-sixth of the profit for years 2, 3 and 4 (year 2 includes June 30, 1965, and ends on November 30, 1965) and on one-third of the profit for year 5. This amounts to \$90,000 (one-sixth of \$340,000 plus one-third of \$100,000) plus an aggregate salary of \$150,000, or a total of \$240,000 over the five years. In addition, he will be required eventually to pay tax on an additional \$566,000 (one-third of the difference between book income of \$2,160,000 and taxable income of \$460,000). All of such tax will have to be paid out of his one-third share of earnings for the period beginning after the end of the five years since, on Evelyn's books, the Ungars would be credited with (i) five-sixths of the book income as their share of profits for the five-year period, and with (ii) whatever is left of Ivler's one-sixth share of book income (after salary) as his purchase price of their stock.

The aggregate purchase price of \$210,000 contained in the above example may or may not eliminate the cheap stock risk. Such risk probably would be eliminated if the purchase of the entire one-third was contracted for now at a fixed price of \$210,000 since a one-third interest in Gevyn today (after the corporation is stripped of the \$275,000 originally set aside for the Ungars, and of the Ungars' share of the first two years' earnings) is probably not worth more than \$210,000 - and may actually be worth less since book value would be well below \$630,000.

Nevertheless, I think it is impossible for Ivler to pay anything like \$210,000 for the stock and still have to pay the taxes due on \$150,000 salary, \$90,000 of Subchapter S income during the period ending November 30, 1968,

and \$566,000 of deferred Subchapter S income. (The actual figures, of course, may vary substantially from those in my example).

In view of all of the above, I think the original agreement should be interpreted as follows:

Ivler is to pay for his one-third share an amount equal to one-sixth of Gevyn's book income for five years, less his drawings of \$30,000 per year, and less income taxes on his share of the profits. It should be emphasized that the Ungars are not paying Ivler's taxes. It is just that the purchase price to be paid reflects the fact that Ivler himself must pay tax on the money he uses to buy stock. Thus, at the end of five years, Ivler will have worked for five years at \$30,000 per year, will own one-third of the stock, and will begin the sixth year free of any tax burden on income earned (per books) as of the end of the fifth year. The purchase price for the stock will consist of the tax savings accruing to the Ungars by having one-sixth of Gevyn's income subject to tax at Ivler's brackets rather than at the top of theirs.* If the Ungars adopt your suggestion of having Ivler now purchase one-third of the stock, the tax savings - and thus the purchase price - would be substantially increased. Moreover, the foregoing formula would not require the reporting of any particular amount of book income for tax purposes, since the estimated tax due on the undeclared portion of book income would be reserved for and charged as a withdrawal by Ivler on Evelyn's books.

SUMMARY

1. Deferring Ivler's purchase of the second one-sixth of Gevyn's stock until June 30, 1968, involves a substantial risk of there being a very large spread between cost and fair value and of eventual ordinary income (in excess of his share of income earned to that date). Thus, it is not just a case of Ivler having to bear the tax on his one-sixth share of income for five years, but also on

* The Ungars will pay tax on the purchase price at capital gains rates. However, in the long run, the aggregate tax paid by Ivler on the one-sixth share of income, plus the capital gains tax on the purchase, should be less than the aggregate taxes the Ungars would pay were they to receive such one-sixth share of income themselves.

the good will element of the stock - which is a tax burden never borne by the Ungars.

2. The Ungars eventually have to pay tax on the monies withdrawn by them from Gevyn; i.e., they can't "give" it to Ivler to help him pay for his stock without their first being taxed on it. If their drawings (including the undrawn portion of Ivler's account which is transferred to them on Evelyn's books as purchase price) are in excess of taxable income, the latter is just deferred and must eventually be reported - perhaps at a time when taxable income exceeds book income and cash flow.

3. It would seem to be a better solution to settle on a fair price for the stock, let the Ungars realize capital gain on the sale, and require Ivler to pay tax on the income used to purchase the stock. The price can either be a fixed amount (this is distinctly preferable if the parties can agree on a price) or based on a formula, such as, one-sixth of income per books for the period from July 1, 1963 through June 30, 1968, as determined by the firm's auditors, less \$150,000, and less an amount equivalent to the taxes which would be payable by Ivler were he to include in his taxable income one-third of Gevyn's book income for the five year period (less \$150,000).

Any installments of purchase price deferred for six months or longer would bear interest at 4 $\frac{1}{2}$ per annum from the date of purchase. The Ungars would report their capital gain on the installment basis.

I have estimated that if Gevyn's book income were \$400,000 per year for each of the fiscal years ending November 30, 1965, through 1968, Ivler could afford to pay \$150,000 for his one-third stock interest. If a higher income were assumed, the purchase price could be increased by approximately 30% of such additional income.

While a purchase from the Ungars would not permit a corporate deduction for compensation if the price paid was eventually determined by the Internal Revenue Service to be less than market value, the cheap stock risk would be considerably reduced by virtue of the price to be paid at this time for all the stock.

If the foregoing was accepted as a basis for an

agreement, such agreement would be implemented as follows:

A. The Ungars would withdraw from Gevyn:

1) \$275,000 (including Cedar Grove);

2) Any additional amount standing to their credit on Evelyn's books which can be withdrawn.

Substantial withdrawals will, of course, have the effect of requiring the shareholders to remain personally liable to the bonding company - but one of the principal purposes of electing Subchapter S treatment is to permit the individuals to withdraw corporate funds without dividend taxation. If withdrawals are not made and the election is revoked (possibly retroactively) the previously taxed earnings are not distributable tax free until all the earnings and profits subsequently accumulated by the corporation are first distributed. If the time should ever come when personal guarantees would no longer be required were the corporation's earnings retained, the bonding problem could perhaps be solved by posting as additional collateral certain individually owned properties previously withdrawn from the corporation.

The more substantial the withdrawals, the lower the book value would be when Ivler purchases his stock, with a resulting reduction in cheap stock risk.

B. Ivler purchases 49 shares of Gevyn from George and 51 shares from Evelyn. This leaves George with 151 shares out of the 300 presently outstanding. Less than 30% of the purchase price is paid in cash withdrawn by Ivler from Gevyn and the balance in promissory notes bearing 4% annual interest.

C. Ivler's annual withdrawals would continue to be restricted (until the stock purchase price is fully paid) to the sum of (i) \$30,000 - Ivler pays his taxes on the \$30,000 out of his drawings, (ii) payments of principal and interest on the notes and (iii) Federal and New York tax payments on income in excess of \$30,000. Taxes applicable to deferred income are kept in the corporation in a reserve available for withdrawal by Ivler when the income is reported.

D. Ivler's stock is subject to repurchase:

1) At the formula price contained in the shareholders agreement (book plus appraised value of work in progress) for 50 shares, and

2) At cost for 50 shares until June 30, 1968, and thereafter at the shareholders' formula price.

E. After the books are closed as of June 30, 1968:

1) The balance of the stock purchase price is paid to the Ungars;

2) Ivler is permitted to withdraw the balance in the tax reserve if he wishes;

3) The parties agree on a final settlement of their respective accounts on Evelyn's books, and

4) Thereafter, Ivler is a full one-third "partner" in Gevyn.

MB/vs

EXHIBIT 6-F

*Final Agreement to
liquidation of
Assets.*

AGREEMENT made this day of September, 1963

(as of July 1, 1963) by and among GEORGE UNGAR of 10-11
162nd Street, Beechhurst, New York (hereinafter referred
to as "Ungar"), EVELYN UNGAR of 10-11 162nd Street,
Beechhurst, New York (hereinafter referred to as "Mrs.
Ungar") (and both hereinafter sometimes referred to collect-
ively as "the Ungars"), WILLIAM M. IVLER of 3 Nash Court,
Stamford, Connecticut (hereinafter referred to as "Ivler"),
GEVYN CONSTRUCTION CORP., METACOUSTIC, INC., WHITESTONE
DEVELOPMENT CORP., SPACE CONSTRUCTION CORP. and UNGAR
ENTERPRISES, INC., all New York corporations (and all some-
times hereinafter referred to as "the Corporations").

WITNESSETH:

WHEREAS, the Ungars are presently the sole stock-
holders of all the issued and outstanding stock of the
Corporations; and

WHEREAS, the Corporations owe to the Ungars as
of July 1, 1963 the sum of \$270,000.00 though said sum may
not appear on the books or the statements of the Corpora-
tions; and

WHEREAS, it is the desire of the parties hereto
that Ivler be employed by the Corporations and that he be
an owner and holder of shares of stock of the Corporations;
and

*51 will
33000
TJ
162nd*

WHEREAS, it is the desire of the parties that their understandings as among themselves be fully set forth herein,

NOW, THEREFORE, in consideration of the mutual promises herein contained, it is agreed by and between the parties hereto that:

1. Ivler shall devote his full time and efforts to the business of the Corporations; provided, however, that he shall spend such time as is required to complete all matters which he has previously handled as an attorney, but shall undertake no new matters unless with the express written consent of the Ungars.

2. Ungar and Mrs. Ungar shall devote their full time and efforts to the business of the Corporations;

3. Upon the execution of this Agreement,
(a) the Corporations shall issue to Ivler 16-2/3% of their issued and outstanding shares of stock (and shall issue no other shares of stock except as hereinafter specifically authorized). Upon the issuance of said shares of stock, Ivler shall endorse the certificates in blank and shall deliver same to Joseph Gluckman (hereinafter referred to as "Gluckman") who shall hold them in escrow pursuant to the terms of this Agreement;

(b) If on June 30, 1965 Ivler has not prior thereto voluntarily terminated his employment hereunder then Gluckman shall deliver to Ivler the aforesaid certificates

of stock and Ivler shall thereafter be the owner thereof free and clear of any escrow or other restrictions except as hereinafter set forth.

(c) Upon the execution of this Agreement, the Corporations shall execute and deliver to Gluckman an additional 16-2/3% of their issued and outstanding shares of stock in the name of Ivler. If on June 30, 1965, the 16-2/3% of stock referred to in subparagraphs "(a)" and "(b)" hereof are or are required to be delivered to Ivler, Ivler shall endorse in blank the additional 16-2/3% of the shares of stock referred to in this subparagraph "(c)" and Gluckman shall thereafter hold them in escrow pursuant to the terms of this Agreement.

(d) If on June 30, 1968, Ivler has not prior thereto voluntarily terminated his employment hereunder, then Gluckman shall deliver to Ivler the aforesaid certificates of stock and Ivler shall thereafter be the owner thereof (representing a total of 33-1/3% of all the issued and outstanding stock of the Corporations) free and clear of any escrow or other restrictions except as herein-after set forth.

(e) None of the Corporations shall authorize or issue any other shares of stock unless specifically consented to in writing by the Ungars and Ivler.

7/20

(f) Ivler shall have the right to vote all shares of stock held in escrow and endorsed in blank by him and shall have all other incidents of ownership during said escrow periods other than the physical possession thereof; provided however that said shares of stock and the interest therein cannot be transferred or pledged as hereinafter provided.

(g) Ivler shall execute any consents necessary to continue or create any of the Corporations as an "S corporation".

4. (a) During the period from July 1, 1963 to June 30, 1965 Ivler shall receive as his full compensation and/or return on his shares of stock the sum of \$150,000.00 or 16-2/3% of the profits of the Corporations, whichever is higher. Ivler shall be paid a monthly gross drawing of \$3,000.00. In addition, it is understood that Ivler shall be furnished with an automobile and the maintenance thereof (as shall Ungar and Mrs. Ungar), which shall not be included in computing the drawings hereunder. If, however, at any time during this period, Ivler shall voluntarily terminate his employment, he shall receive, within ten (10) days after such termination, the difference between such gross drawing and \$6,250.00 per month, pro rated to the date of such voluntary termination.

*no more
than \$3,000
shares
Capital
Capital
Ivler
Offer*

(b) If Ivler has not voluntarily terminated his employment in said period of time, the difference between his drawing as hereinabove set forth and the total compensation

due Ivler hereunder (after the payment of any taxes due thereon) shall be retained by the Corporations in full payment for the first 16-2/3% of the shares of stock issued to Ivler hereunder.

(c) During the period from July 1, 1965 to June 30, 1968 Ivler shall receive as his full compensation and/or return on his shares of stock 33-1/3% of the profits of the Corporations. Ivler shall be paid a monthly gross drawing equal to one-half the total drawing of Ungar and Mrs. Ungar combined. The term "drawings" are used in this subparagraph "(c)" shall include all monies either paid to or for or on account of the parties by the Corporations;

(d) If at any time during the period from July 1, 1965 to June 30, 1968 Ivler shall voluntarily terminate his employment hereunder, he shall receive within thirty (30) days after such termination the difference between his gross drawings and 33-1/3% of the gross profits after taxes as computed by the Corporations' regular accountants, together with the actual book value of the shares of stock of the Corporations then held by him, which shall be purchased by the Corporations. The purchase price of stock shall be paid one-half at the time of termination and the balance in two equal yearly installments, the first payment to be made one year after termination and the second payment to be two years after termination. The computations of gross profit and actual book value shall take into consideration both Ungars' and Ivler's estimates on uncompleted and completed work, but the determination of the accountants shall be final.

(c) If Ivler is not voluntarily terminated from employment by June 30, 1963, the difference between his compensation as received and that on May 15, 1963 (c) and the total compensation due Ivler hereinafter (the "payment") may be, and shall be, referred to as the Corporation's "Stock Bonus" and shall be paid to Ivler in the form of stock convertible to Ivler hereinafter.

(d) Between the time "actual book value" is used herein or is understood to be the outstanding loans of the Company, Ivler is referred to shall be referred to as the Corporation.

5. (a) If at any time between July 1, 1963 and June 30, 1964, Ivler's employment is terminated for any reason other than his voluntary termination or death or disability, Ivler shall upon such termination receive from the Corporation as additional compensation for that period the difference

between the actual gross drawings received by him during that period and \$150,000.00.

(b) If at any time between July 1, 1964 and June 30, 1965, Ivler's employment is terminated for any reason other than his voluntary termination or death or disability, Ivler shall receive upon such termination as additional compensation for the period from the commencement of the employment hereunder to the date of termination the difference between the actual gross drawings received by him during that period and \$300,000.00.

(c) If at any time between July 1, 1965 and June 30, 1968, and Ivler has or should have received the 16-2/3% of the shares of stock of the Corporations from Gluckman, Ivler's employment is terminated for any reason other than his voluntary termination or death or disability, the Corporations and/or the Ungars shall purchase from Ivler upon such termination all the shares of stock of the Corporations owned and held by Ivler for the purchase price of \$300,000.00 less the sum actually drawn by Ivler from July 1, 1963 to June 30, 1965 or twice the actual book value of said shares of stock (as computed by the regular accountants of the Corporations pursuant to the same procedures as set forth in paragraph "4(d)" hereof) whichever is higher.

(d) Simultaneously with such payment Ivler shall deliver all the shares of stock of the Corporations then held and owned by him and Gluckman shall return to the Corporations any other certificates of stock held by him hereunder.

6. If Ivler shall die or become disabled for a period longer than ninety (90) days (except as hereinafter provided), this Agreement shall terminate and

(a) if such death or disability occurs between July 1, 1963 and June 30, 1964 the Corporations shall pay to Ivler's estate or his legal representative or to Ivler, if disabled, within thirty (30) days after such death or disability the sum of \$75,000.00;

(b) if such death or disability occurs between July 1, 1964 and June 30, 1965 the Corporations shall pay to Ivler's estate or his legal representative or to Ivler, if disabled, within thirty (30) days after such death or disability the sum of \$150,000.00;

(c) if such death occurs between July 1, 1965 and June 30, 1968, the Corporations shall purchase all the stock of the Corporations owned and held by Ivler from Ivler's estate or his legal representative and pay therefor within thirty (30) days after such death the actual book value of such shares of stock of the Corporations owned and held by Ivler.

(d) If such disability occurs between July 1, 1965 and June 30, 1968 whether it is for ninety (90) days or longer, after ninety (90) days, Ivler shall draw one-half of the drawings provided for in paragraph "4(c)" hereof until the termination of such disability. If, however, such disability shall continue for over one year, the Ungars

and/or the Corporations shall have the right to terminate this Agreement by the purchase from Ivler of all the shares of stock of the Corporation owned and held by Ivler for the purchase price of \$300,000.00 less the sums actually drawn by Ivler from July 1, 1963 to June 30, 1965 or the actual book value of said shares of stock (as computed by the regular accountants of the Corporations pursuant to the same procedure as set forth in paragraph "4(d)" hereof) whichever is higher;

(e) upon the payments provided in this paragraph "6", all the shares of stock of the Corporations owned or held by Ivler shall become the property of the Corporations and all escrows hereunder shall terminate and any stock certificates held thereunder shall be returned to the Corporations;

(f) the Corporations may insure the payments required under subparagraphs "(a)", "(b)" and "(c)" hereof and deduct the cost thereof from Ivler's draw or payments due hereunder.

7. The Ungars agree that as long as this Agreement is in effect and/or as long as Ivler is a stockholder of any or all of the Corporations, they shall not transfer, assign, sell, pledge or otherwise encumber their shares of stock of the Corporations (except to each other) without the prior written approval of Ivler.

8. In consideration of this Agreement being no restriction upon the Ungars to transfer assets of the Corporations or to do any acts in connection therewith to suit their personal purposes, the Ungars jointly and severally hereby guarantee to Ivler any and all payments required to be made by any or all of the Corporations pursuant hereto.

9. As long as Ivler is required to be employed hereunder and/or is a stockholder of the Corporations, the Boards of Directors of said Corporations shall be limited to three, and Ivler shall be one of the three directors. The Ungars and Ivler agree to use their best efforts to have elected Ungar as President, Mrs. Ungar ~~and~~ Secretary-Treasurer and Ivler as Vice-President of the Corporations. All bank resolutions shall authorize either of the Ungars or Ivler to sign for the Corporations.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

George Ungar

Evelyne H. Ungar

William M. Ivler

GEVIN CONSTRUCTION CORP.

BY: _____

METACOUSTIC, INC.

BY: _____

WHITESTONE DEVELOPMENT CORP.

BY: _____

SPACE CONSTRUCTION CORP.

BY: _____

UNGAR ENTERPRISES, INC.

BY: _____

Agreed to:

Joseph Gluckman

- 1) think about our lack of desire to borrow stock
- 2) no penalty but our termination - pay immediately
- 3) liquidation?
- 4) ~~W1~~ & ~~W2~~ substantial all time
W1 all time
- 5) W1 full personal indemnification
- 6) ~~W1~~ is thinking re % of profit after 2 yrs.
- 7) Cleans up language of 4f re book value.
- 8) no restriction of ~~W1~~ stock but must offer to W1 & ~~W1~~ they, upon x: notice, demand ~~W1~~ purchase his share.
Purchase by ~~W1~~ that ~~W1~~ hold ^{most}
 $66\frac{2}{3}$ & ~~W1~~ $33\frac{1}{3}$.
- 10) #7 out unless written with 8 together.

EXHIBIT 7-G

Urgent

EX. 7-G; Page 1 (E)

BILL: The questions that Jack Allison had resolved themselves, I believe, to the following points, which I promised to take up with you so that he could start drafting. I'm not sure I can transmit them all properly because I'm myself a little confused; however, he said if you had questions or things you wanted to discuss, please call him.

By the way, Joe Gluckman will be in his office with him at 10:00 a.m.

① CHU does
not have
option. ②
when I have
option
③ I leave to
EHU. -

1 - We never resolved the matter of who was to decide the value of the buy-out in the event of George's death, when it's just you and I. Jack suggested that if you and I could not agree, that we should put an arbitration in the agreement, that each of us picks an arbitrator etc. For lack of a better idea myself, I think I would accept that, because frankly, I can't see you and I in court facing each other over an accounting.

2 - A further discussion with Marty and Jack on the subject of the purchase price of both your 1/6's, brought up the inadvisability of transferring the whole 1/3 now, with 1/6 in escrow, because the purchase price for the second 1/6 (purchase price so-called) is presently unknown since it will be the gross earnings for 1/6 from the second to the fifth year, reduced by drawings, which amount we will then in effect consider the purchase price, just as we're about to do for the first 1/6 now. Secondly, GU and I had come to the conclusion Sunday, that we don't want a corporate purchase but an individual purchase anyway, because in selling you our stock, we're going to generate ourselves a capital gain without affecting your tax picture in any way. Jack seemed to feel, therefore, that we don't for the first 1/6 require a stock purchase plan at all, but rather you would purchase the stock from us personally, and we would draw only a stockholders agreement, ~~including~~ relating principally to stock re-purchase by GU and EH. On this point, no matter what Jack and Marty said, I'm still confused and for some idiotic reason haven't grasped how it's to happen; however, in the first instance we've agreed that I will have a statement ready by the end of the first week in July and then I'll make all our private adjustments and come up with the value of your 1/6th and then go from there. Jack seems to have a method in mind which sounded to me like you would pay some small sum to us and would give a note for the balance, or something. How this work is still a mystery to me, but since Jack and Marty know and understand what's intended, I feel sure we'll be able to work it out mechanically somehow. Furthermore, they also said that with income averaging, this should not affect your own personal taxes too badly. The tax problem as I see it, is that you personally have to ~~take~~ tax your 1/6-earnings anyway, the problem is just how to defer it in the same way we're deferring ours.

This leaves the matter of the second 1/6th. First Jack said that he would simply write an option with no stated amount to be exercisable at the end of the 5th year. Then they decided that this would bring on new complications. Then Jack said that your only real exposure is in the event of both of our deaths during the 3rd, 4th and 5th year.

Therefore, I reminded him that our wills left you 1/3 right now and that on the re-draw of the wills, we would again leave you 1/6 (1/6 being yours after this agreement is executed). The tax consequences to you from an inheritance of the stock, are, according to Jack far less than the purchase. Thus, it is up to you whether you want to live with us another 3 years on our word that you are getting another 1/6 at the end of the 5th year and on our further word, that our wills, once drawn, will not be altered during the intervening years. Since your earning power once you now own the 1/6 remains constant till the end of the 5th year, you run no financial risk until that time, but only for the 6th year and thereafter when you're supposed to have 1/3. I told Jack that if the problems of giving you a written option, therefore, are insurmountable, I was sure you would go along as per the above. Jack said it would make the whole thing immeasurably easier; however, he wouldn't say that it was totally impossible, although he couldn't see a convenient way right away. My suggestion would be that we let him draft so much as we know we've got worked out, and then face the second 1/6 at a later date; however, the decision is yours, and perhaps you want to talk to Jack further about this.

In any event, we will be moving along a lot better after the first week in July when I finally have a figure of your worth.

3- The last point brought up was the problem of your continuing in Gevyn in the event of both of our deaths. Jack went over again the two problems; namely, your being taxed for the good will, or your problem as a fiduciary if you pay nothing for it. Jack seems to feel that that you are better off taking a chance on paying some inheritance tax for the good will, rather than being in a position as a fiduciary where you've "cheated" the estate. Since by the time this problem arises, both George and I would be dead, I really can give absolutely no thoughts in this matter, especially since any ideas here are way beyond my scope. Jack said if you disagreed with his conclusion, or if I failed to pass it on in a proper fashion, you should also call him about this.

If you do call him, the following is the most important part of my quandry on the transfer of stock, and if you can't resolve it for me, perhaps you better bring it up to him:

If we establish, for arguments sake, that your share, with drawings already off, for 6/30/65 is actually (not book or capitol-wise) worth \$60,000 (house number), then the intention was that this is considered your money and the actual value of your stock. However, this cannot be entered on our books that way because, firstly, you would have to ~~tax~~ tax the whole amount and because we would have to have 5 times as much, and therefore tax \$300,000, or that part that we haven't taxed up to \$300,000. Where we go from there with notes, etc., etc., beats the hell out of me. Jack did say something about your taking a chance about "undervalued stock" as being the best bet rather than taxing such an amount, but I must say I'm left behind mechanically (as I have been for the past two years) at the very point after we value your stock, which is then worth a hell of a sight more than 1/6 of the taxed capitol.

What can I say, besides love & kisses, etc.

EXHIBIT 8-H

November 10, 1965

Mr. Martin Barr
Marshall, Bratter, Greene, Allison & Tucker
430 Park Avenue
New York, N. Y. 10022

Dear Marty,

Firstly I want to thank you again for all the time you spent with us yesterday.

Secondly, I am recapping our discussion hereby and would appreciate your letting me know whether any major points have been left out of my thinking.

1 - Firstly, I will send you either today or tomorrow our projected earnings for the next three years so that you can advise us in terms of income averaging and our upcoming closing.

2 - I will make arrangements immediately to withdraw from Gevyn \$160,000 of earned surplus (\$103,000 less the original capital), as well as \$100,000 for this year's close.

3 - I will await word from you as to whether or not Bill Gladstone wants to come in and handle our closing.

4 - I will await word from you as to how to take Cedar Grove out of Gevyn.

5 - In connection with large loans and their possibly destroying our "S", I would like to have you think over the fact that our bonding company, in order to continue writing our present program, will always require that we have I would say at least \$600,000 in the business. If, therefore, George and I don't put in a lot of loans, we would be in trouble in this area.

Mr. Martin Barr

- 2 -

November 10, 1965

6 - I will wait for an answer regarding Bill Gladstone before making any attempted decisions regarding the accruals for our subsidiary corporations.

7 - I have read the Stockholders Agreement but will make no comment thereon until it is re-drafted covering some of the points that we discussed. As it stands, it is perhaps correct for the items covered, but is presently incomplete.

8 - Before redrafting Stockholders Agreement, you will consider and advise us whether we should perhaps become a partnership.

9 - Additionally, you will consider in what possible way we can cover the point of taking in additional stockholders without destroying "S" and still leaving GU in 51% control position.

10 - In reviewing the entire tax situation, you will advise whether it is important that Bill be a stockholder of record on the date of the close.

11 - I will also look forward to your telling me what installment payments will be required for the stock purchase - how much over what period of time, assuming at all times that we have the cash flow available for immediate transfer now.

12 - There are two additional points which we did not examine and which I do not quite grasp, that perhaps you could think about and/or give me an answer on immediately:

a) How, mechanically, does Bill get stock of the other corporations, or does the presently-envisioned purchase price cover the stock of all the corporations. If so, then to avoid the danger of "cheap stock", there is, in my opinion, an extreme urgency of having him a stockholder of Space and Metacoustic before their closings, because if we wait until afterwards, their value has been established, and it will not be low. If we transfer before, then we could perhaps do it as of the date of our agreement rather than as of a current date.

b) We discussed it over the telephone today, so I won't mention it here again.

13 - I am enclosing two corporate resolutions that are required to cover our present withdrawal of funds.

14 - I am enclosing the most recent Financial Statement as at August 31, 1965.

Best regards,

1 - The following Savings Accounts which were corporate funds although in the name of George or Evelyn H. Ungar, were transferred to Ungar Account by Journal Entry on October 1, 1965.

American Savings Bank	03-45688	\$10,378.89
Bowery Savings Bank	997-745	10,392.51
Broadway Savings Bank	89-031	10,305.87
Bay Ridge Savings Bank	471-969	10,213.62
Chase Manhattan Bank	115-17022	10,299.35
Dime Savings Bank	66044	10,392.46
Franklin National Bank	103372	10,312.27
Jamaica Savings Bank	56593	10,392.46
Queens County Savings Bank	248532	10,392.13
Ridgewood Savings Bank	96177	10,392.46
Seafarers Bank for Savings	1501841	<u>10,322.13</u> \$113,794.15

2 - Savings Certificate of the Franklin National Bank dated August 9, 1965 and purchased in the name of Evelyn H. or George Ungar in the amount of \$25,000.00 which were at the time of purchase corporate funds, were transferred to Ungar Account by Journal Entry on November 11, 1965.

For your information - additionally \$92,000 ± of Ungar drawing account (shown as Due from Officers) will be transferred as of November 11, 1965 to Ungar UTI Account.

EXHIBIT 9-I

MEMORANDUM

EXHIBIT NO. 9-I

DATE September 10, 1965

TO: George Ungar, Evelyne Ungar and William Ivler

FROM: Martin Barr

SUBJECT: Purchase of Stock of Gevyn Construction Corp.

This memorandum explores certain aspects of the agreement under which Bill Ivler ultimately is to acquire a one-third interest in Gevyn Construction Corp. Although the memorandum will refer only to Gevyn, it should be understood as including by reference all other corporations affiliated with Gevyn in the construction business.

We understand that the basic principle of the agreement is that Bill is to acquire his interest out of profits earned by Gevyn. In other words, it is assumed that Bill has no outside source of income or capital from which to pay for his stock. Instead, he has agreed to work for Gevyn for five years commencing July 1, 1963 at a stipulated salary (now approximately \$30,000 per year) and to apply all other funds available to him from the business towards the purchase of stock. At present, he is to receive one-half of his stock interest as of June 30, 1965, and the balance as of June 30, 1968.

The mechanics of the foregoing have been described to us in several different ways. For example:

1. Bill will be credited with one-sixth of Gevyn's

profits before drawings and will purchase his stock for an amount equal to such one-sixth share less his drawings.

2. Bill will work for five years at \$30,000 per year and will receive his stock for nothing.

3. Bill will work for five years at \$30,000 per year. The difference between his salary and one-sixth of Gevyn's profits before drawings will be received by him as a gift from George and Evelyne and be used by him to purchase stock from them.

While each of the above describes essentially the same business arrangement, income tax considerations of all the parties dictate a more precise interpretation of the underlying agreement. This is even more important than we had first considered in view of the estimate we have been furnished of Gevyn's book profits before drawings for the fiscal years ending November 30, 1965 through November 30, 1968 which aggregate approximately \$3,186,000.

The tax difficulties stem from three factors:

1. If Gevyn were a partnership, Bill could be given a one-sixth profits interest in 1965 and a second one-sixth interest in 1968 without adverse tax consequences. In other words, the receipt of an interest in future profits upon admission to a partnership does not constitute the realization of taxable income where, as is customary, no part of the capital

of the old partners is transferred to the new partner. On the other hand, the receipt by an employee of stock in his employer corporation is taxable to him as additional compensation to the extent of the excess, if any, of the fair market value of the stock at the time of purchase over the price paid by him. Although, under some circumstances, the tax may be postponed, income tax at ordinary rates will eventually be payable upon the compensatory element of a bargain purchase. Since such compensation income is based on the market value of the stock, it is in addition to, and is not limited by, the corporation's own taxable income. Moreover, when - as here - the stock is to be purchased from the other shareholders, there is no assurance that the corporation will be entitled to a deduction for the amount of compensation taxed to the employee.*

2. Gevyn is a "Subchapter S" corporation, the undistributed taxable income of which is included in the gross income of its shareholders in proportion to their stock interests as of the last day of the corporation's taxable year - November 30. Thus, if Bill purchased one-sixth of Gevyn's stock on or before November 30, 1965, he would be taxed on one-sixth of the cor-

* Even if the stock were distributed to Bill by the corporation, the amount deductible by the corporation in any year would be limited to "reasonable compensation".

poration's undistributed taxable income for the entire twelve-month period ending November 30, 1965, even though he held his stock for only a small portion of the year. The same thing would be true in 1968 when Bill would be taxed on one-third of Gevyn's undistributed taxable income even though he owned only one-sixth of the stock during most of the fiscal year.

3. Gevyn's taxable income differs substantially from its income per books due to the method of accounting employed. Thus, it appears that if the dollar volume of the corporation's business continues to increase each year, without an acceleration of the rate at which jobs are completed, it is likely that taxable income will continue to be less than both book income and cash flow. On the other hand, taxable income would be precipitated if a number of jobs were completed in a year in which the volume of new construction declines. As a result, it is possible for Bill to acquire a stock interest in Gevyn and then be required to include in his personal tax return substantial amounts of income which for book purposes were treated as received in prior years and therefore allocated to George and Evelyne.

We assume that any proposal to reduce the tax risks of the parties must conform to the following requirements:

A. From the point of view of George and Evelyne:

1. They must not be taxable on any profits which are in fact paid over to Bill (except insofar as Bill uses such funds to purchase their stock - and then the tax would be at capital gains rates). Thus, they should not be considered as "making a gift" to Bill of income which remains taxed to them.

2. Bill should not be entitled to any increased benefits at the expense of George and Evelyn through stock ownership in Gevyn prior to the time contemplated in the agreement.

B. From Bill's point of view:

1. His stock purchase, whenever effected, can be financed solely out of his drawings from the business.

2. Since he has no outside sources of income or capital, any taxes required to be paid by him on profits from

the business must be paid with funds drawn from the business. Thus, to the extent that his stock ownership carries with it a liability for taxes on undistributed profits, sufficient funds must be set aside in the business to pay the taxes when they become due. He, of course, remains personally liable for taxes on moneys actually withdrawn from the corporation.

One way of achieving the foregoing objectives is to permit Bill to purchase one-third of Gevyn's stock at this time, with one-half of such stock subject to special restrictions. These restrictions would insure George and Evelyne's right to repurchase the stock prior to June 30, 1968 at Bill's cost rather than at the price applicable to a repurchase of Bill's other shares.

The purchase price of the stock would be fixed at this time and would be subject to increase or decrease only if profits should vary substantially from the assumptions used in arriving at the price. The reasons for not using a completely variable price based on earnings are principally two-fold: (i) the difficulty in formulating a schedule of

prices which would take into account the net earnings available to Bill after taxes at various income levels, and (ii) the use of a price which fluctuates directly in accordance with profits would enhance the risk of an Internal Revenue Service contention that the stock purchase is taxable in part as additional compensation.

The price would necessarily be based on estimates of Gevyn's profits and of the applicable income tax rates on the portion of such profits taxed to Bill. Annexed hereto is a schedule showing one such computation resulting in a purchase price of approximately \$364,000 based on estimated aggregate profits for the four fiscal years ending November 30, 1968.* The basic assumption made is that Bill now keeps \$25,000 per year after taxes on his drawings and that at the end of the period (i) he is to have nothing left to his credit after drawing his fixed salary but that (ii) all taxes due on profits earned during the period have either been paid (to the extent such profits were reportable for tax purposes during the period) or amounts reserved for their ultimate payment (to the extent such profits are deferred for tax purposes

* The corporation's fiscal year was used since the information supplied to us was computed on that basis. An adjustment could be made, if necessary, to conform to a June 30th contract period.

until fiscal years ending after November 30, 1968).

The formula may be applied to any other assumed figures as follows:

One-third of Gevyn's book profits before drawings for the 4 fiscal years ending November 30, 1968	\$
<u>Add:</u> Bill's salary (4 years) - say	<u>120,000</u>
Total taxable to Bill	\$
<u>Deduct:</u> Estimated taxes payable by Bill on above amount	\$
Bill's salary after taxes (4 years) - say	<u>100,000</u>
Tentative purchase price	\$
<u>Add:</u> Additional price required, if any, to bring George and Evelyn's after-tax income to what it would be if they were taxed on five-sixths of Gevyn's income.*	\$
Final purchase price (subject to future revision only if profits rise or fall above or below amounts to be specified in the purchase agreement).	\$

* In the example annexed, this amount is the difference between \$1,063,094 and \$1,045,755, or \$17,339 - to which must be added an amount sufficient to enable George and Evelyn to pay the capital gains tax attributable to this additional \$17,339.

The purchase price would be evidenced by promissory notes bearing 4% annual interest which would be scheduled for payment in accordance with estimates of Gevyn's cash flow since the money used to make all payments would be withdrawn by Bill from the corporation.

The results of the proposed purchase would be as follows:

1. George and Evelyne receive at least the same amount of after-tax income as they would have had they been taxed on five-sixths of Gevyn's income during the four-year period.

2. While Bill owns one-third of the stock, he does not derive any benefit from such ownership at the expense of George and Evelyne because:

a) George and Evelyne, having two-thirds of the voting power, can control the Board of Directors and can vote any corporate action desired including the liquidation of the corporation or the sale of all its assets; and

b) If Bill disposes of his stock before June 30, 1968, he cannot realize any profit on one-half of it since the repurchase price would be equal to his cost.

3. George and Evelyne are never taxed at ordinary income rates on more than two-thirds of Gevyn's profits.

However, they receive as purchase price for one-third of their stock the entire balance of Gevyn's profits (after taxes at Bill's rates) less Bill's salary.

4. George retains the same absolute right to buy out Bill at any time with no increase in the overall purchase price since the price to be paid for the second one-sixth is the same price which Bill must pay to George and Evelyne for such stock.

5. Bill's "cheap stock" risk is substantially reduced since the fixed price will bear a closer relationship to the current value of a one-third stock interest in Gevyn than would the prices which Bill would otherwise have to pay for the stock in 1965 and 1968.

6. No change is required in Gevyn's method of tax reporting. That is, the use of assumed after-tax values in setting the purchase price does not mean that the book income must be reported for tax purposes in the years involved in the calculations. However, it does mean that drawings would be restricted so that the funds required to pay taxes on book profits will be available when those profits are eventually reflected in taxable income. This protects Bill from a future tax burden on moneys which he is not permitted to retain, and insures that George and Evelyne will receive the full purchase price for their stock.

Although there are other ways to achieve the desired objectives, such as a joint venture between Bill and Gevyn, we believe that the suggestion outlined above is the simplest and easiest.

PROCEDURES TO BE FOLLOWED

If the approach outlined in this memorandum were adopted, it would be implemented as follows:

A. George and Evelyne would first withdraw - in the form of cash and real property - as much as possible of Gevyn's accumulated earnings. The more substantial the withdrawals, the lower the book value would be when Bill purchases his stock, with a resulting reduction in cheap stock risk.

If necessary, part of the withdrawals can be loaned back to the corporation in exchange for short-term interest-bearing promissory notes. However, the amounts to be loaned must be limited to those which can be justified as true

debt. Excess loans run the risk of being classified as a second class of stock, the existence of which would automatically destroy Gevyn's Subchapter S status.

Substantial withdrawals will, of course, have the effect of requiring the shareholders to remain personally liable to the bonding company - but one of the principal purposes of electing Subchapter S treatment is to permit the individuals to withdraw corporate funds without dividend taxation. If withdrawals are not made and the election is revoked (possibly retroactively) the previously taxed earnings are not distributable tax free until all the earnings and profits subsequently accumulated by the corporation are first distributed. If the time should ever come when personal guarantees would no longer be required were the corporation's earnings retained, the bonding problem could perhaps be solved by posting as additional collateral certain individually owned properties previously withdrawn from the corporation.

B. Bill would purchase 49 shares of Gevyn from George and 51 shares from Evelyne. This would leave George with 151 shares out of the 300 presently outstanding. Less than 30% of the purchase price would be paid in 1965 in cash withdrawn by Bill from Gevyn (so that George and Evelyne can elect to have their stock sale taxed on the installment basis) and the balance in promissory notes bearing 4% annual interest.

C. Bill's annual withdrawals would continue to be restricted (until the stock purchase price is fully paid) to the sum of (i) \$30,000 - Bill pays his taxes on the \$30,000 out of his drawings, (ii) payments of principal and interest on the notes and (iii) Federal and New York tax payments on Bill's one-third share of Gevyn's taxable income in excess of his drawings of \$30,000. Taxes applicable to Bill's one-third share of Gevyn's income reported for book purposes but deferred for tax purposes would be kept in the corporation in a reserve available for withdrawal by Bill to pay taxes when such income is reported.

D. A stockholders' agreement would be executed providing, among other things, that Bill's stock is subject to repurchase:

1. At the formula price contained in the shareholders' agreement (book plus George's appraisal of the value of work in progress) for 50 shares, and
2. At cost for 50 shares until June 30, 1968, and thereafter at the shareholders' formula price.

E. Bill must file a consent to continue the Subchapter S election within 30 days of becoming a shareholder. This is a vital step since the failure to file a timely consent automatically terminates the election.

GEVYN CONSTRUCTION CORP.

	<u>Estimated Profits After Salaries (Per Letter)</u>	<u>Salaries Included In Overhead</u>	<u>Estimated Profits Before Salaries</u>
November 30, 1965	\$ 514,000	\$ 130,000	\$ 644,000
November 30, 1966	930,000	130,000	1,060,000
November 30, 1967	772,000	130,000	902,000
November 30, 1968	<u>450,000</u>	<u>130,000</u>	<u>580,000</u>
Totals	\$2,666,000	\$ 520,000	\$3,186,000

Basis of Computations

Assume that the above amounts are taxable in years earned. If actually reported in subsequent years, the aggregate taxes due would probably be substantially the same - particularly if income averaging continues to be available during the earlier years.

Computation of Purchase Price

A. Amount George and Evelyn would have left after taxes if they were taxed on five-sixth of Gevyn's income (1965-1968):

	<u>Unmars</u>	<u>Ivler</u>	<u>Total</u>
Gross income	\$2,621,666	\$ 564,334	\$3,186,000
Less taxes	<u>1,725,886</u>	<u>273,020</u>	<u>1,998,906</u>
After-tax income	<u>\$ 895,780</u>	<u>\$ 291,314</u>	<u>\$1,187,094</u>
Less Ivler's salary after taxes		<u>100,000</u>	

	<u>Uncars</u>	<u>Ivler</u>	<u>Total</u>
Available as purchase price	\$ 191,314	\$ 191,314	
Less capital gains tax*	<u>24,000</u>		
Net proceeds of sale	\$ <u>167,314</u>		
After-tax income plus net proceeds of sale** \$1,063,094			

B. Amount George and Evelyn would have left after taxes if they were taxed on two-thirds of Gevyn's income:

	<u>Uncars</u>	<u>Ivler</u>	<u>Total</u>
Gross income	\$2,177,334	\$1,008,666	\$3,186,000
Less taxes	<u>1,409,954</u>	<u>568,291</u>	<u>1,978,245</u>
After-tax income	\$ <u>767,380</u>	\$ 440,375	\$ <u>1,207,755</u>
Less Ivler's salary after taxes		<u>100,000</u>	
Available as purchase price	\$ 340,375	\$ <u>340,375</u>	
Less capital gains tax*	<u>62,000</u>		
Net proceeds of sale	<u>278,375</u>		
After-tax income plus net proceeds of sale	\$ <u>1,045,755</u>		

* Assumed tax rate of 26% and tax basis of \$100,000 for one-third of stock.

** If the assumed profits were lower, the after-tax income plus proceeds of sale would be greater in B than in A. The opposite result occurs here because Bill's effective tax rate on the second one-sixth of Gevyn's profits, when added to the capital gains tax on the balance, exceeds George and Evelyn's top tax rate.

C. Summary

After-tax income to be realized by
George and Evelyn (the higher of
A or B above - in this case it is
A)

\$1,063,094

Income from Gevyn profits
(from B above)

767,380

Net proceeds to be realized from sale
of stock

\$ 295,714

Capital gains tax payable on sale of stock

68,765

Purchase price

\$ 364,479

Proof: 26% of \$264,479 (\$364,479 less \$100,000
basis) = \$68,765.

EXHIBIT 10-1, 2 and 3

WARREN -

11/10/74

11

SEC.	DESC.	1 SUB	2 LT	3 MAILS	4 GEVIN LABOR	5 TOTAL
2	EXCAVATIONS Hand Exc.	Milano	75950		7000	75950
3	CONCRETE SITE CURBING Bituminous Asphalt Block			56000	~	56000
	PRECAST MISC MASONRY	SEE 5A		36000		36000
				13000		13000
4	TOPSOIL & Seeding			860		860
5	CONCRETE MATERIALS	253000		16000		16000
6	TESTING Reinforcing DETAILING		196000			196000
7	Accessories		9100			9100
8	MESH	7500				7500
9	Placing Rebars	122500				122500
10	HOISTING			271		22000
11	Finisher, L.C.				45001	45601
12	Forming Linear				305882	305882
13	Forming 11175					150340
14	Facing Co.					52319
15	5A FENCE	130000				130000
16	ERCTION		5-000			50000
17	6 CLO & TIE DE.			SEE ROOFING SUB		
18	TIE			800	1000	1800
19	7 STRUCTURAL STEEL	18000				18000
20	8 U. STS	18400				18400
21	Erector	1520				1520
22	9 Roof Dec.	20600				20600
23	Centering					
24	Erection					
25	10 Roofing S.H.	3876				3876
26		Northwestern	247230			247230
27	11 F.M. - N.	"				
28	12 Masonry	640877				640877
29	MATERIALS					323639
30	13 Windows	102000				102000
31	ERCTION		28000			28000
32	14 MISC. H.M.	38500				38500
33	Entr. Tres	26000				26000

U. S. TAX COURT

DOCKET NO. 10-11

Marked for Identification
Produced in Evidence
Docket No. 2491-73

OCT 21 1975

SEC	DISC.	SOB	TO LET	GEN MAIL	LABOR	TOTAL
1	36 Food Service E.g. (Sec-19) MARKET FORGE - Noninst. STA)		69900		69800	1
2	37 LECTURE Pro Seating	6100			6100	2
3						3
4						4
5						5
6						6
7						7
8						8
9						9
10						10
11						11
12	SALES =	6384.000 -				12
13	CREDITS	8,100. -				13
14						14
15						15
16	Costs	6375.900				16
17		4918.244 -				17
18						18
19						19
20						20
21						21
22						22
23						23
24						24
25						25
26						26
27						27
28						28
29						29
30						30
31						31
32						32
33						33
34						34
35						35
36						36
37						37
38						38
39						39

SELL

MAYVIEW

No		BUDGET	GEYLN EST: H	OFFER	OFFER	BALANCE TO SELL	TOTAL SECTION COST
1	DEMOLITION	55000 -	74602 -	96000 -			1
2	EXCAVATION	35000 -	38940 -	-			2
3	CONCRETE	395500 -	430195 -	-			3
	RE-BARS L	64000 -	66602 -	64000 -			4
	— H	122000 -	126700 -	127000 -			5
						195000 -	
	MESH	1000 -	685 -				6
	ACCESSORIES	7500 -	7500 -				7
	METAL PANS	165000 -	217490 -	160000 -			8
4	CATTONS	72000 -	92000 -	65000 -	RESEAU	11400 -	9
5	PRECAST	300000 -	305000 -	295000 -		295000 -	10
6	WATERPROOF	10000 -	13500 -				11
7	MASONRY	575000 -	620000 -	585000 -			12
8	RE. & CAMP	IN-13 -	-	-			13
9	ALL. ETC.	245000 -	221000 -	224750 -	INSTALL	26000 -	14
93	REF. TIC. ETC.	-93 -	100000 -	26000 -			15
10	NO	62000 -	65342 -				
11	METAL	SEC 10 -	SEC 10 -				
12	+ PLATE	158000 -	164000 -	150000 -			
13	+ CAR. ENTRY	26000 -	26000 -			20000 -	
	MILWOOD	180000 -	142928 -	185000 -			
21	ALUM. F. AK	-	42500 -				
22	(INTER) WOOD F.	4500 -	4595 -	IN-22 -			
23	FAB. ETC. ETC	14700 -	15981 -	14500 -	IN WITII - 29 -		
24	W. KING	19000 -	35486 -	7250 -	CHATHAM - BALIUN SEC 5		
25	EDWARE	60000 -	75750 -	64000 -			
26	STICK	37500 -	40000 -	37500 -	LITTLE		
27	LOW H. ETC	37000 H 20000 L	40866 17591	33000 - M 10000 -	PIONEER 12 DOORS IN SEC 13		
28	SLT DOOR	2000 -	2000 -	L 450 -			
29	PLC. + ORN. ETC	105000 -	108322 -				
30	WINDOW WTRN	52000 -	61240 -	52300 -			
31	VINYL FLOOR.	10000 -	1100 -	8500 -	SEC. 22		
32	TERRAZZO	305000 -	323757 -	303000 -			
33	CER. T. + QT	115000 -	129640 -	104250 -			
34	MARBLE			5696 -			
35	METAL OFFICE P.	13000 -	14340 -	12570 -			
36	NET TAKI 1QT	7000 -	7200 -				
37	TC. ET. CEIL	14000 H 5000 L	16828 - 5000 -	16828 -			
38	PF. TIN	42000 -	63075 -	38250 -			
39	VINYL FLOOR	47500 -	59975 -	47500 -			
40	GLASS - GIDS	100000 -	129000 -				

48 STATE COURT
 Photo Ex. 10-62
 OCT 21 1974
 Pending for Identification
 Received in Evidence
 Docket No. 249173

B.F.

BUDG ESTD.	20000	-	13668	-	1	
GENERAL BUDGET	6200	-	6273	-	2	
INTEREST	3000	-	2500	-	3	
BUDG-IBAT COUNCIL	76000	-	38739	-	4	
Food Service	52350	-	60000	-	5	
SPECIAL ESTD.	12650	-	32555	-	6	
ELEVATORS	12000	-	123782	-	7	
DRUG REVENUE	3100	-	38700	-	8	
PERSONAL - 8252	6300	-	12000	-	9	
				106000	-	10
				2500	-	11

3719.000 - 4263726 -

GENERAL 12000

40000.

FED. 454000.00

375000 =

BONDS 10000

ASSESSMENT 365000

+ 67

- 33

24 = 2100

586000 -

HARTFORD P.O.

3-5-1965

Sec		Total Cost	GENYN LABOR	GENYN HAT. + REWSTAL	Subcon. To Be Awarded	Subcon Tract. Later"	Adjustmt
1	7 DEMOLITION	53000-	46500-	6500-			
2	8 EXCAVATION	1500-	1200-	300-			
3	9 CONCRETE MATERIAL	-					
4	REBAR + REINH	-		0000-			
5	FORMING	-	2000-	2600-			
6	PLACET/FINISH	-	14500-	4350-			
7	HOLDING	-	6050-	500-			
8	TOTAL	43100-	1500-	3500-			
9	10 Asphalt + G.	-					
10	(INC. = 7+10)	26000-					
11	WATER PROOFING	600-					
12	REF. INSUL (IN 18)	-					
13	STRUCT STEEL	32500-	18500-				
14	STEEL JACK	1000-					
15	MASONRY	45000-	32200-	12800-	14000-	40000-	
16	STONE	5000-		500	1000-		
17	ROOFING	13500-					
18	SHETMETAL						
19	STEEL WINDOWS	4500-	4000-	500-			
20	ALUM. LENS/DOOR	1500-	1000-	500-			
21	CAULK + SEAL	400-	400-	500-			
22	MISC. METALS	24000-	3000-	1000-	20000-	6000- MISC.	
23	H. M. WIRK	13500-	4000-	-	9500-	2000- SHUTTER -	
24	MODABLE P. RTW.	35000-			35000-	9400- P. Powers	
25	LATH + PLASTER	46900-					
26	ACOUSTIC	21000-					
27	WOOD WORK	10000-	5000-	1500-	21000-		
28	LAH. RES. MATER	-			17900		
29	METAL TOILET P.	750-					
30	ACCESSORI	1500-					
31	INT. MARBLE + DIA	0000-	2000-				
32	CERAMIC TILE	000-					
33	TERRAZZO	8500-					
34	REFL. FLOOR (IN 10)	-					
35	EXT. PAINT	45000-					
36	INT. PAINT	1500-					
37	GLASS						
38	Hardware						
39	Alum.						

45000 - 30000 - (15000)

45 TA COURT
10. - (5)
OCT 21 1971
Marked for Identification
Received in Evidence
Docket No. 2491-73

HARTFORD -

PAGE - 2 -

	TOTAL	GEN LABOR	GEN. MAT. + RENTAL	SUB TO BE AWARDED	SUB.	Adjust
41 PASSENGER ELEV.	123000 -	3000 -			120000 -	1
42 FREIGHT ELEV.	-				-	2
43 WIRE MESH	1750 -				1750 -	3
45 PLUMBING	16000 -				16000 -	4
47 AIRCOND - DUCTWORK	132500 -				132500 -	5
CHILLERS	26600 -		26600 -			6
PUMPS	2400 -		2400 -			7
COOLING TOWER	4500 -		4500 -			8
COILS	8500 -		8500 -			9
FILTERS	3500 -		3500 -			10
FANS	9750 -		9750 -			11
SOUND AC ORB	2000 -		2000 -			12
REGISTERS ETC	3000 -		3000 -			13
PIPE & FITTING	8000 -		8000 -			14
VALVES + S	5500 -		5500 -			15
LABOR	33000 -	33000 -				16
HOISTING	3500 -		3500 -			17
TEMP. CONTROLS	21000 -			21000 -		18
MISC. MAT.	10250 -		10250 -			19
48 INSULATION	1000 -			130000 -	26000 - 50000 -	20
49 Electrical	1					21
50 LIGHT. FIXT	3000 -				306000 -	22
51 FIRE ALARM	-					23

1,315,080 - 111,850 - 134,050 - 384,100 - 618,980 -

Gen. Cond.

BOND -	11900 -	UNION. 8%	12303 -	
HOIST + ELEV. CO.	3000	LAB INS.	21177 -	
CLEAN + PUNCH	7500 -			
TEMP. PROTECT	2500 -	ADDO TO LABOR	33480 -	TOTAL COST
TELEPHONE	3000 -	INS - UNION		1,317,980 -
SIGN	350 -	FOR MATH INCURSED		LABOR INC.
SUPER	18000 -	UNDER See 47 - Line 2		33480 -
INSURANCES	3650 -			411,460 -
TRAVEL	3500 -			SALE
PETTY CASH	3500 -			1,682,000 -
MISC.	6000 -			411,460
PAYROLL TX.				RE - \$ 270,640 -

EXHIBIT 11

File - and destroy.

One prepared approximately
a year ago is attached
for comparison purposes.

Exhibit

In further comparison, 4/64
showed * 248,815 f.a.

Exhibit

OVERHEAD PROJECTION
Prepared 7/8/65

(For length of applica-
bility, see 4/30/65
FORECAST)

SALARIES

Ungars	\$ 50,000
Ivler	30,000
Ross Huntington	15,000
Sy Leibmann	16,640
George Marcus	18,000
Gerald Sheine	17,000
George Bauer	11,180
Joe Pirrotta	9,100
Bernard Wood	6,500
Orman Broadway	4,000
Mildred Pearlman	8,300
Esther Gerber	7,800
Miriam Mercado	7,300
Sylvia Pinson	6,240
Pat Stampinato	6,000
Annette DiBernadetti	5,460
Priscilla Brown	5,200
Mary Carey	4,400
Jr. Secy.	4,160
	232,280

Unemployment (up to
\$3,000 on 20 people) 2,520

Social Security (up to
\$4,800 on 20 people) 3,480

Comp. & Lia. (.1% up
to \$300 per week) 170

\$238,450

REGULAR

Rent	\$10,000
Telephone	12,000
Electric	800
Insurance, incl. auto	2,200
Cleaning Service	1,500
Accounting	6,000
Xmas Expenses	2,500
Stationery & Supplies	2,400
Xerox & Copy paper	1,200
Girls' Travel	900
Auto. Expenses	3,000
Postage	1,500
Payroll Service	1,800
Group Insurance	5,500
Ads & Subscriptions	1,000
Travel & Entertain	6,000
Office Maintenance	2,000
Plans & Spec - Cost	300
Bid Expenses	1,000
Outside Legal	1,500
Miscellaneous	1,500

\$64,600

U. S. TAX COURT	
Petr's Ex.	11
OCT 21 1975	
Marked for Identification	
Received in Evidence	
Document No. 244-73	

TOTAL: \$303,050 Per Annum
25,254 Per Month

* Shortly to be eliminated and done by
our present staff.

BEST COPY AVAILABLE

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

WILLIAM M. IVLER and BARBARA IVLER,
Plaintiffs-Appellants

NO. 76-4232

-against-

COMMISSIONER OF INTERNAL REVENUE,
Defendant-Appellee

AFFIDAVIT OF SERVICE
BY MAIL

STATE OF CONNECTICUT) SS: Stamford, December 17, 1976.
COUNTY OF FAIRFIELD)

BEVERLEE JEAN GOYNES, being duly sworn, deposes and says:
deponent is not a party to the action, is over 18 years of age and
resides at 28 Center Terrace, Stamford, Connecticut 06906.

On December 17, 1976, deponent served the within
Exhibits upon Gilbert E. Andrews, Esq. and Mead Whitaker, Esq.,
attorneys for Defendant-Appellee in this action, at the U.S. Department
of Justice and Internal Revenue Service, 1111 Constitution Avenue, NW,
Washington, D.C., respectively, the address designated by said attorneys
for that purpose by depositing a true copy of same enclosed in a post-
paid properly addressed wrapper, in a post office depository under the
exclusive care and custody of the United States Postal Service within
the State of Connecticut.

Beverlee Jean Goynes
Beverlee Jean Goynes

SWORN TO before me
this 17th day of December, 1976.

S. David Leibowitz
S. David Leibowitz,
Commissioner of the Superior
Court.